

COUNCIL MEETING

OCTOBER 18, 2017

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 18, 2017 at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Ross Kagawa (*present at 10:20 a.m.*)
Honorable Arryl Kaneshiro
Honorable Derek S.K. Kawakami (*present at 8:32 a.m.*)
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

Excused: Honorable Arthur Brun

APPROVAL OF AGENDA.

Councilmember Yukimura moved for approval of the agenda as circulated, seconded by Councilmember Chock, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kagawa, and Kawakami were excused*).

Council Chair Rapozo: Motion carried. We are going to take the first item, before the interview because we are not going to have quorum if we go with the interview. Let us go ahead and take Resolution No. 2017-50.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Chair, this brings us to page 6, Resolution No. 2017-50.

There being no objections, Resolution No. 2017-50 was taken out of order.

RESOLUTIONS:

Resolution No. 2017-50 – RESOLUTION RENAMING THE KAMALANI KAI BRIDGE LOCATED AT LYDGATE BEACH PARK "BYNUM BRIDGE" IN HONOR OF THE LATE COUNCILMEMBER TIM BYNUM: Councilmember Yukimura moved for adoption of Resolution No. 2017-50, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you very much. With that, Councilmember Yukimura.

Councilmember Yukimura: Yes, could we have the Resolution read, please?

Council Chair Rapozo: Sure.

Ms. Fountain-Tanigawa: "RESOLUTION RENAMING THE
KAMALANI KAI BRIDGE LOCATED AT LYDGATE BEACH PARK 'BYNUM
BRIDGE' IN HONOR OF THE LATE COUNCILMEMBER TIM BYNUM.

WHEREAS, the late Councilmember Tim Bynum was a longtime resident of Wailua, Kaua'i, and was very involved in community activities; and

WHEREAS, the Bridge known as the Kamalani Kai Bridge (Bridge) was built in Lydgate Beach Park in the fall of 2001 by thousands of community volunteers as a continuation of the Kamalani Playground and many other volunteer-led enhancements to Lydgate Beach Park; and

WHEREAS, a Federal Highway Administration grant was obtained to purchase the materials for the Bridge, as well as the construction of 2.5 miles of pathway from the Bridge through Lydgate Beach Park that mark the beginning of Ke Ala Hele Makalae, East Kaua'i's multi-use "Path That Goes By the Coast" which, when completed, will stretch from Lihu'e to Anahola; and

WHEREAS, this Bridge and pathway, along with many other Lydgate Beach Park facilities such as the Kamalani Playground built in 1994, the sports fields, rest areas, and maintenance building, were the result of the drive and vision of former Kaua'i County Councilmember Tim Bynum, who led community fundraising efforts, wrote for Federal grants to fund the Bridge and these projects, and recruited a broad coalition of community members to help build and maintain them; and

WHEREAS, the late Councilmember Tim Bynum's dedication and tireless effort on behalf of the people of Kaua'i, until his passing in 2016, have resulted in a legacy of community facilities that will continue to contribute to the health and well-being of Kaua'i's people for generations to come;

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that the Kamalani Kai Bridge, located at Lydgate Beach Park be hereby named "Bynum Bridge" to recognize and honor the late Councilmember Tim Bynum for his many contributions to the community.

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to Bernard P. Carvalho, Jr., Mayor and Leonard A. Rapozo, Jr., Director of Parks & Recreation, with a request that appropriate signage be erected at Lydgate Beach Park to proclaim his name." This was introduced by Councilmember Ross Kagawa, by request.

(Councilmember Kawakami was noted as present.)

Councilmember Yukimura: Thank you, Madam Clerk. I want to say that I think the renaming of the bridge is a wonderful way to recognize the man who was instrumental in bringing it about, along with all the other enhancements and especially the Kamalani Playground. Tim Bynum saw a similar playground on the Big Island when he was visit his son David and he was so inspired that he came back to Kaua'i and said, "I want the community of Kaua'i to have this kind of playground for their *keiki*." It is very appropriate that that playground is named Kamalani Playground, "heavenly child," because that is how we hold our children on this island. That playground has been a source of great joy for many, many children and will be for generations of children. Thank you to the Parks & Recreation and the Friends of Lydgate and others who have initiated this effort and I want to acknowledge, too, that a big part of Tim's vision was the Friends of Lydgate Park. I see Tommy Noyes here. He has been a leader and was a leader with Tim on the whole playground and entire park development, but they have been a really stunning example of a public/private partnership and they have done so much to help the County, which is

stretched in trying to maintain our facilities, in keeping this very beloved and much used park in good condition and repair. Thank you to all who brought this forth to us and I want to acknowledge the presence of Tim's family here. Tim's brother, Curt. Could you just stand? His wife, Judy. Of course Tim's wife, Virginia "Gini," and daughter Kelly. Is there anybody else? Okay. Thank you.

Council Chair Rapozo: At this time, I will suspend the rules if anyone would like to come up before we have the Council discussion. Is there anyone in the audience that would like to come up and say a few words?

Ms. Fountain-Tanigawa: Chair, we do have a registered speaker.

Council Chair Rapozo: Okay.

There being no objections, the rules were suspended.

TOMMY NOYES: Good morning, Chair Rapozo and Councilmembers. My name is Tommy Noyes. I am the general coordinator for the Friends of Kamalani and Lydgate Park. Thank you for accepting discussion of this measure today. Tim is a person who affected my life profoundly and I think he deserves the recognition that we are proposing and I hope that you see your way to approve this Resolution and can come to Lydgate Park on Saturday morning, this weekend, April 21. We are celebrating National...

Council Chair Rapozo: October.

Mr. Noyes: October 21, excuse me...this Saturday. Moreover, lend a hand with community members showing care and stewardship for our regional park there.

Council Chair Rapozo: What time on the 21st?

Mr. Noyes: We are accepting check-ins at 7:30 a.m. at the main pavilion at Lydgate Park. I believe that the Mayor will be coming to the play bridge at the south end of the park at 10:45 a.m. to speak to the folks that are working on the bridge there and share his thoughts on Tim's legacy and then we will serve lunch about 11:30 a.m. Any part of the morning that you can come by, we would certainly love to have your participation.

Council Chair Rapozo: Thank you. Does anyone have a question? Thank you very much. Anyone else wishing to testify?

FELICIA COWDEN: Felicia Cowden, for the record. I support honoring Tim Bynum. He is the man who I felt gave a lot of love and positive support to our community from cradle to grave. He was there for people in the hardest of times and the Kamalani Kai Bridge is an excellent example of how he supported from the cradle up. My children and I were part of putting that bridge together and doing the artwork and every time I am over there, I always feel warmly. We got to do the ceramic pieces on it and a few parts of actually building. I know it has a legacy for my children. They always felt that it is a part of them and I want to cry because he is such a wonderful person, I am sorry he is gone. Everything from drug rehabilitation to keeping people fit with the bike path that runs there. He is one of those few individuals that I have never seen a mean bone in his body, so I honor that he is being honored and I will be there on Saturday. Thank you.

Council Chair Rapozo:

Thank you. Is there anyone else?

LEONARD A RAPOZO, JR., Director of Parks & Recreation: Good morning, for the record, Director of Parks & Recreation Lenny Rapozo. The Mayor and I wholeheartedly support this Resolution and support the efforts of Tim and what he has done and the continued vision of the organization that continues to help maintain Lydgate and Kamalani Kai. This is a community-driven project, but also this recognition is from them that wanted to bestow this honor on Tim, which I think is so appropriate. Thomas and I meet at least once a month or maybe more than that if they so need to discuss to help them help us with the continuing maintenance of this project that makes so many people on this island happy, not only families, schools, organizations; it is unlimited. The Mayor and I thank the family, especially for them because we all know as servants, the family needs to give up their time with someone who is passionate about a community project. I would like to recognize the family and thank them on behalf of the County, the Department, the Mayor, and myself. We try to contribute as much as we can and every time they do have these clean-up projects, as a personal note, I am the "chili cooker." Thank you very much.

Council Chair Rapozo:

Is there anyone else?

CURT BYNUM: Hi, I am Tim's brother. My name is Curt Bynum. When Tim got out of school, his expertise and his passion during his master's thesis in work was abused children. Shortly after he graduated, he came here on a business meeting and he came home and said, "I am moving to Kaua'i," and we all said, "Yeah, right." In less than a year, he was here and I hear him talk about going to Waimea on the Big Island and seeing a playground. His job was a block or two from here and he was in charge of taking care of abused children. This person said he does not have a mean bone in his body, is an understatement. His love for this island is amazing and I had the sheer pleasure of almost three (3) decades of living his life and this island and being a part of it. I remember him coming home and saying, "We are going to build a playground for the children," and the park that was there was an overgrown mess. I only got two (2) weeks' vacation back then from IBM, so I got to come over here and what I did for vacation was he put a machete in my hand and we started clearing brush. We found a dilapidated bathroom twenty (20) yards back into the brush. From that day to this, I have listened to a vision of love of him talking about, "See the old pavilion, one day it will look like this," and then we had his memorial there. Then, the Kamalani Playground and I got to listen to that and then he talked about soccer fields for kids, and then he talked about bridges across river beds and campgrounds, bike trails, and he spent his entire life loving the people on this island, not just the kids, but the *aloha* spirit of the people I get to address today. He was a tax-and-spend liberal and I am a conservative businessperson, but we both believed in one thing: taking care of people. He said it is a government's job to take care of people and I said, "A poor country cannot take care of its poor," but we all have the same heart. No one in my experience could possibly have had more impact on the children and the people of this island and the legacy he leaves behind for posterity will last forever. It was a life well-lived and for him to be honored, the generations will say, "Who was Tim Bynum," and the people in this room will always remember who Tim was and this island will always be better for it because he was here. Thank you.

Council Chair Rapozo: Is there anyone else? If not, I will call the meeting back to order. Further discussion? Councilmember Kawakami.

The meeting was called back to order, and proceeded as follows:

Councilmember Kawakami: First, on behalf of my family and myself, I want to offer our deepest condolences for the loss of a great man. I had the honor of being able to serve with Tim and whether it was dogs on the bike path or affordable housing, he was a man that was firmly rooted in the foundation of social justice to make sure that those who did not have were able to have the equal opportunity as everybody else. He firmly believed in creating the safety net and parachute so nobody could fall through the cracks. You know, the pain and grief of a loss one never really goes away and somebody likened it to someone having a broken ankle that heals and you dance and you can always feel that slight pain, but you dance anyway. Having this bridge named after Tim is fitting because he was a person who built bridges. He was able to bring *kama'āina*, *malihini*, young and old, longtime legacy families, and newcomers together for a common purpose. We often agreed on most things, the very few things that we disagreed on, he always kept that bridge opened, and he was always the one crossing the bridge over to talk to me and make sure we were okay and understand where he was coming from. On behalf of our family, I want to thank you, the family, for allowing him to serve because without your ability to sacrifice, he would not have been able to do what he did. We will always remember him, it is a great legacy, and it is something that we should all strive for. Thank you.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Chock.

Councilmember Chock: Thank you, Curt, for being here and the words you shared. I think everyone that have spoken has really captured the essence of what Tim Bynum was about. I was lucky enough to work with him over the years and see his tenacity and persistence in the vision that he had, which really was about everyone. I think we all benefited because of it, particularly with his work, playground, Kamalani Kai Bridge. I am sorry that I cannot be here this weekend to actually see the unveiling of this, but I know he will be there in spirit, filled with your love in honor of him. I appreciate all the people that have worked hard to put this together, the artists, Luke Evslin, Kat Hoe, Laurel, Doug, and everyone. Tommy, thank you so much for the work that you folks have done in putting this together and honoring him. I think it will be a great celebration for him.

Council Chair Rapozo: Did you want to say anything else, Councilmember Yukimura? Thank you for introducing this Resolution. I know Councilmember Kagawa introduced it at the request of the County Administration and friends. I think Curt probably said it best and in fact I am just thinking...Lenny, I am not sure how this goes as far as the signage, but if we could incorporate the highlights of Curt's testimony in the plaque of the sign, I think it would be fitting for those who do not know or will not know, for the ones who obviously come after us. I think that would be very important. I think taking excerpts out of what you said. I do not know if we can fit the entire thing on the...I wish we can because it actually was a great testimony. We do not take naming things lightly on the Council. I do not know how many I have been involved in over the last fifteen (15) or so years...it is just a very small number and is not something we give away like certificates or recognition. This one is major and again, it takes a lot to get a park or bridge named after someone, but in this case, I think it is very fitting. I remember when I was in a Rotary Club, way back, and we had a community workday at Kamalani and it was exactly how you described it, Curt. I got there and said, "Oh, my goodness." They had cane knives available to go ahead and start whacking away and it was hard work, but it was way back before Tim's vision was there, but it was one of those projects

that you wonder, "Are we ever going to get it done. This is so much work to do." One thing Tim was able to do very successfully was rally the troops together. I am not sure if it is Lenny's chili or whatever it might be—that does help—but I can honestly say that there were people there not just for the chili, they were there to really push this vision through. It finally happened. I think if you ask anyone that knows about the bridge would not argue the fact that Tim was a big part of that. In fact, I will go as far as if not for Tim, then that bridge probably would not have been finished. There were just too many easy opportunities to get out of that project, so obviously we appreciate the effort. Of course, as Councilmember Kawakami said to the family, our condolences. It is never easy, I know. We all have loss very close family members and it does not...I like the ankle analogy. I never thought of that, but that is exactly what it is. It just never goes away. So with that, thank you for being here. Curt, are you living here?

Mr. Bynum: (Inaudible).

Council Chair Rapozo: Yes, I think we felt that. Thank you for making the journey back home for this, and obviously, we are going to try to make it out there on Saturday. Thank you all for being here. Are there any closing comments before we take the vote?

Councilmember Yukimura: It occurred to me, and Tommy can probably confirm or not, but that bridge was conceived partly so that the fishermen could have access.

There being no objections, the rules were suspended.

Mr. Noyes: Tommy Noyes with Friends of Kamalani. As a regional park, Tim working with Park Planners, Meryl Grimes, in particular, who also passed away, worked very diligently to bring everybody to the table, as Councilmember Kawakami was saying. The various interests there were fishermen. They definitely wanted access to the point there in front of the Kahalani Condominiums. The condominium owners had many concerns about the changes to Lydgate Park, putting a pathway immediately in front of their condominiums between them and the ocean was a big concern. Also, putting sports fields adjacent to their property. Now they have soccer balls coming through their windows. Tim was a great conciliator and brought everyone together, so yes, the bridge does accommodate people accessing the coast through there. We have fortunately been able to address everybody's concerns and come up with solutions that I have done a good job of meeting community needs and lifestyle.

Councilmember Yukimura: Thank you. I just thought it was another illustration of how Tim was trying to address and include everyone.

Mr. Noyes: That was his style.

Councilmember Yukimura: Thank you.

Mr. Noyes: Thank you.

Council Chair Rapozo: Yes.

Mr. Bynum: Curt Bynum. I think it is also important to know that his heart went to everybody in need. I remember when he said, "We are

going to build a bridge across a river,” I was like, “What is the big deal?” Then I saw it and I saw what he was putting together. My mother was in a wheelchair and the other thing is if you are handicapped and you cannot get to a beach, you can now because you can go across that bridge and she was the first wheelchair across that bridge sitting out and letting the waves come to her was a big deal. His love of the people of this island was unbelievable. The *aloha* spirit that he adopted and that you all live is something that is beautiful that he has contributed to forever.

Council Chair Rapozo: Thank you.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Are there any further comments? If not, roll call.

FOR ADOPTION:	Chock, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun, Kagawa	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Motion passes. Thank you very much.

Ms. Fountain-Tanigawa: Chair, this brings us back to the first page, Interview.

INTERVIEW:

CHARTER REVIEW COMMISSION:

- Marissa L. Sandblom – Term ending 12/31/2017

Ms. Fountain-Tanigawa: We do have one (1) registered speaker.

Councilmember Kaneshiro: Chair, I was going to recuse myself from this interview.

(Councilmember Yukimura was noted as not present.)

Council Chair Rapozo: Yes, and that takes away quorum. Let us hang on real quick. Can we move on to the Consent Calendar?

CONSENT CALENDAR:

C 2017-231 Communication (09/28/2017) from Dru Kanuha, Hawai'i State Association of Counties (HSAC) President, transmitting for the Kaua'i County Council's consideration, the following proposals to be included in the 2018 HSAC

Legislative Package, which were approved by the HSAC Executive Committee on September 11, 2017:

2018 HSAC Legislative Package Proposals:

1. A Bill For An Act Relating To Zoning (*County of Kaua'i*)
2. A Bill For An Act Relating To Taxation; Income Tax Credit For Hiring An Individual With A Disability (*County of Kaua'i*)
3. A Bill For An Act Relating To Taxation; Income Tax Credit For Hiring An Elderly Individual
4. A Bill For An Act Relating To Transient Accommodations Tax (*County of Kaua'i*)
5. A Bill For An Act Relating To Automatic Fire Suppression Systems (*County of Kaua'i*)
6. A Bill For An Act Relating To The Conveyance Tax (*County of Maui*)
7. A Bill For An Act Relating To Transient Accommodations Tax; To Require Online Travel Companies And Other Transient Accommodations Remarketers To Pay Transient Accommodations Tax On Their Respective Portions Of Gross Rental Proceeds From The Payment Of Accommodations (*County of Maui*)
8. A Bill For An Act Relating To Government Records (*Carry over from 2017 HSAC Package - County of Maui*)
9. A Bill For An Act Relating To Important Agricultural Lands (*Carry over from 2017 HSAC Package - County of Maui*)
10. A Bill For An Act Relating To Collective Bargaining (*Carry over from 2017 HSAC Package - County of Maui*)
11. A Bill For An Act Relating To Tort Liability (*Carry over from 2017 HSAC Package - County of Kaua'i*)
12. A Bill For An Act Relating To Unadjudicated Traffic Fines (*Carry over from 2017 HSAC Package - County of Kaua'i*)
13. A Bill For An Act Relating To Emergency Medical Services (*Carry over from 2017 HSAC Package - Kaua'i County Council*)
14. A Bill For An Act Relating To Unmanned Aerial Vehicles (*Carry over from 2017 HSAC Package - City & County of Honolulu*)
15. A Bill For An Act Relating To Community Meetings (*Carry over from 2017 HSAC Package - County of Maui*)
16. A Bill For An Act Relating To Identification Cards For Persons With Disabilities (*Carry over from 2017 HSAC Package - County of Maui*)
17. A Bill For An Act Relating To Transient Accommodations Tax (*Carry over from 2017 HSAC Package - County of Maui*)

C 2017-232 Communication (10/04/2017) from the Managing Director, transmitting for Council consideration, a Resolution Renaming The Kamalani Kai Bridge Located At Lydgate Beach Park "Bynum Bridge" In Honor Of The Late Councilmember Tim Bynum.

(Councilmember Yukimura was noted as present.)

Councilmember Chock moved to receive C 2017-231 and C 2017-232 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion or public testimony?

The motion to receive C 2017-231 and C 2017-232 was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. I apologize. I inadvertently skipped the minutes. Can I get a motion to approve the Minutes?

MINUTES of the following meetings of the Council:

September 6, 2017 Council Meeting

September 20, 2017 Council Meeting

September 20, 2017 Public Hearing re: Bill No. 2662, Bill No. 2663, Bill No. 2664, and Bill No. 2665

Councilmember Kaneshiro moved to approve the Minutes as circulated, seconded by Councilmember Chock.

Council Chair Rapozo: Any discussion or public testimony of the minutes?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the Minutes as circulated was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Councilmember Kaneshiro. Just for your information, Councilmember Kaneshiro is going to step out and recuse himself from the interview of the Charter Review Commission.

(Councilmember Kaneshiro was noted as recused.)

Ms. Fountain-Tanigawa: The first registered speaker is Felicia Cowden.

Ms. Cowden: Felicia Cowden, for the record. Marissa Sandblom is a competent, capable, and good person for whom I have much respect and warm regard. I consider her a friend, but she is also a key administrator for Grove

Farm and that is where my concern is because I think there is a conflict of interest in giving Grove Farm one (1) more vote on the Charter Review Commission, which really was intended to be a one-time event and not to be continuing. Chair Jan Tenbruggencate is also a paid advocate for the promotion of Grove Farm interests. He typically invites the nominees for the Commission. Grove Farm has a strong, understandable track record for looking after their own best interest, which do not necessarily align with what is best for the County. The County needs to control Grove Farm rather than be controlled by it. I want to give a few examples. One is the controversial Hawai'i Dairy Farms proposal. It is going to have a concentrated animal operation of two thousand (2,000) cows, if it happens, and it is on a critical aquifer for the Puna *moku* that threatens the financial viability, the highest paying taxation area on the island. It is roughly twenty-five percent (25%). It is managed to not even be on the General Plan update for the South Shore Development Plan when that is a critical impact. I could go on about that. You know the conflicts with the dairy farm and yet Grove Farm does not back off on hosting this high impact use of the property. Another issue is monopolizing the water from the diversion of the North Fork of the Wailua River and continuing to ask for forty-seven percent (47%) of the island's growth as is dependent on that continued diversion. Jan Tenbruggencate, who I also like and consider competent, is the Chair of Kaua'i Island Utility Cooperative (KIUC), the power company, which is the asking entity for the sixty-five (65) year water lease. This is conflict. It does not make anybody bad, but it is conflict. Grove Farm controls the water for the Puna *moku*, the water treatment, and holds critical lands that can be utilized for affordable housing adjacent to Grove Farm. They also hold agricultural tenants that use contentious pesticides. They are accused of having allowed reckless sewage dumping in the lava tubes, perhaps in the past, but is the likely causation for our most contaminated island stream with enterococcus bacteria and vehemently has fought signage that warns the stream users. Grove Farm is strongly represented on the Board of Water Supply and even has a sitting Councilmember. This is problematic. All commissions would be well served to have a transparent online commission application process so anyone is allowed to apply, and the Council as well as the public can have full view of which talent is overlooked.

Council Chair Rapozo: Anyone else wishing to testify on this matter?
Go ahead; you can have your next three (3) minutes.

Ms. Cowden: Thank you.

Council Chair Rapozo: Ms. Cowden, I just ask that you confine your
comments to this interview.

Ms. Cowden: It is.

Council Chair Rapozo: Oh, no. You have spoken a lot about Grove
Farm and allegations, but that is not...we are talking about a candidate or nominee

to the Charter Review Commission, so please tie it back to the function of that Charter Review Commission. Thank you.

Ms. Cowden: Okay. The current staking of the Charter Review Commission has strong, capable people, they are very good. The minutes of the last season of the Charter Review Commission will openly show that the ballot amendments brought forth were consciously crafted to explicit a "yes" vote and intentionally withheld the contrary reasons that would support a "no" vote. The Garden Island newspaper was used as a vehicle for misinformation by a sitting Charter Review Commissioner member to manipulatively instruct the population that the ballot amendments were common sense. This powerful unelected board has a more powerful hand than the County Council to manipulate our core governmental charter document. More often than not, there is not a full commission present for the meetings. Three (3) votes is all that is needed to pass important measures. There is no Hō'ike, which is a huge piece for accountability in the County. I do not have to mention names, but there is an easy three (3) votes and it is fifty (50) minutes that these commission meetings often happen and maybe an hour and fifteen minutes and they cover issues that our elected members would be tortured for a year on doing. I respect Ms. Sandblom greatly. It is not that I have any issue with her; I would hire her in a heartbeat or include her in a project because she is a good and component person, but I do not believe that Grove Farm should be given this level of control over our County government. It is powerful and profound. I also do not understand why the posting on her appointment is stating only two months left of this term. That is weird. It says it is up in December of 2017. Why would there be just a two-month term for an amazing person, but this is the beginning of things and I believe it would be the full two-year term, so I am not sure why it stated that way on the agenda, maybe it is a mistake. I love Marissa, but I do not love the fact that we give any one (1) institution that is a major landowner this type of control over our County Charter, no one is looking, and we probably picked one of the best and most capable groups that I have seen so far for the Charter Review Commission. This is kind of like the deep state for the County, they can get away with doing anything they want even if their intention is good, it is going to be good for their company, but not necessarily good for Kaua'i. Thank you.

Council Chair Rapozo: With that, Marissa.

MARISSA L. SANDBLOM: Good morning.

Council Chair Rapozo: Good morning. You are being nominated to the Charter Review Commission. I am not sure if you have been here before in this capacity.

Ms. Sandblom: No.

Council Chair Rapozo: The rules are very simple. You can give us a real brief overview of yourself and your interest in serving on this Commission and then we will open it up to questions from the Councilmembers.

Ms. Sandblom: Okay.

Council Chair Rapozo: If you could just start with your name for our Captioner.

Ms. Sandblom: My name is Marissa Sandblom and I want to say thank you for the chance to serve as a volunteer for the Charter Review Commission. To share a little bit about myself, I am a third generation resident here on Kaua'i, born and raised. I have a loving and supportive family and I knew as a child that I wanted to live and work and raise my future family here. When I went away to school, I went to Hawai'i Pacific University. I got my Bachelor's Degree in Business there as a student athlete. I continued on to get my Master's in Business Administration from there as well. I worked for a local bank for a few years, before I was able to realize my dream and come home to Kaua'i, where I worked for a nonprofit for several years. For the past twelve (12) years, I have worked for Grove Farm Company. I have lead the company's Philanthropic and Charitable Giving. I am President of the Foundation there. I also manage and oversee a number of our community and educational outreach projects. Over the years, I have had the great experience of serving for a number of different wards, nonprofit boards, statewide boards, such as PBS Hawai'i. Here locally, I am serving in for the American Red Cross. I have found that every new experience has taught me a lot. I have learned a lot from each board that I have served on and I was raised to always give back whenever possible and remember my roots. I feel that serving in this capacity would allow me to best serve my community.

Council Chair Rapozo: Are there any questions for Ms. Sandblom?
Councilmember Yukimura.

Councilmember Yukimura: Good morning, Ms. Sandblom. Excuse my ignorance, but you were a student athlete in what sport?

Ms. Sandblom: I played tennis, at Hawai'i Pacific University.

Councilmember Yukimura: Excellent. Okay, and then what nonprofit did you work for before joining Grove Farm?

Ms. Sandblom: In Honolulu, I worked for a local city bank and then I moved back home to work for the Kaua'i Economic Development Board for several years.

Councilmember Yukimura: Okay, right. Good. Your appointment would be to the Charter Review Commission and I was wondering if you could tell us what you understand to be the role and function of the Charter.

Ms. Sandblom: I understand that the Charter is kind of our County's Constitution and there are differing opinions about having charter amendments put on the ballot. My personal philosophy is that if the intention were to have every issue that arose put on the ballot, then it would really diminish the need to have such a commission as the Charter Review Commission. I think my roll, if selected, would be to help work with my fellow Commissioners. As issues arise, keep an open mind and have an open dialogue to discuss both sides of an issue before coming to a decision.

Councilmember Yukimura: You actually anticipated my second question, which was how you would approach amendments to the Charter. What I heard was that you would not just put anything and everything that came to you on the ballot?

Ms. Sandblom: Correct. I think in that role in working...and I look forward to hopefully working with the fellow Commissioners, they have a wealth of knowledge and experience and so I think the role of the Commission would really be to review things as they come up, research things thoroughly, look at both sides of the issue, have an open dialogue, and then make a decision on how best to move forward.

Councilmember Yukimura: I have heard the argument, "Let the people decide," so just put it on and I am looking for a Commission that will really thoroughly vet the issue and then say, "This would be a good thing," and then put it on and not put it on saying, "Let the people decide," because when you have not actually evaluated the merit...I would not want to see something that is on there that the Commission has not deemed after thorough study to be a good thing.

Ms. Sandblom: Correct.

Councilmember Yukimura: One of the issues that really was talked about a lot, and in fact, the Council did quite a bit of work on it with Councilmember Chock doing the research and leading the Committee on it was on the Council-Manager Form of Government. I wondered whether you have had a chance to look at the issue and if you have not already arrived at a tentative conclusion about it whether you are open to actually looking deeply at the possibility of City Manager/Council Manager type of government.

Ms. Sandblom: I realize that that has come up before and that has been an issue that has been considered and I understand that there has been extensive research on both sides of the issue, both for and against. I actually am not

completely comfortable and familiar with both sides and so until I am able to really do a deep dive on my own, I do not have an opinion on that. Should it arise again, then I would do my best to look and evaluate it from all sides of the issue, talk and discuss the issue at length with my fellow commissioners, and then come to a decision.

Councilmember Yukimura: And of course listen to input from the community, I presume.

Ms. Sandblom: Of course.

Councilmember Yukimura: Okay, thank you.

Ms. Sandblom: Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Ms. Sandblom, thank you for being here. I appreciate your willingness to serve. The Charter Review Commission is a huge commitment—make sure you have a babysitter.

Ms. Sandblom: Supportive family—thanks goodness for that.

Councilmember Chock: I think the questions are really around knowing some of what the Commission has taken on, what are some of those that stand out for you in terms of issues that you would like to look at and have discussions on, from your perspective. Is there anything particular that stands out?

Ms. Sandblom: Nothing now. I know just in kind of keeping an ear to the ground and some of things coming up in the community, you know the County Manager is one issue that has popped up every now and then and it has been revisited. I have a copy of the Charter and I reviewed it, but for the time being no one else has kind of said anything or mentioned to me regarding hot button issues.

Councilmember Chock: There are a lot of discussion on districts and so forth.

Ms. Sandblom: I have heard rumblings.

Councilmember Chock: Are those things that you see coming back up and things that you would be interested in looking into?

Ms. Sandblom: I am not sure. I know there is a Charter Review Commission meeting coming up, I think next week, and so I was planning to

maybe sit in as just a member of the public to just listen and hear what they are going to be discussing.

Councilmember Chock: Councilmember Kaneshiro is here, he recused himself, and I think he does it often when it comes to...

Ms. Sandblom: Of course.

Councilmember Chock: Obviously, because some of the concerns that have come up with public testimony and relationships with the company they represents and work for. How do you feel about taking on that role and knowing when and when not to recuse yourself? I do not know if there are any subject matters that would stand out for you that would be worth considering and warrant your attention and recusal.

Ms. Sandblom: Well I have great admiration and respect for Councilmember Kaneshiro. I think he is a true passionate public servant, so that being said he is his own man, I am my own woman, and we make our own decisions based on our experiences and knowledge. I think with regard to the question of...I guess I approach that issue as we all wear many hats in the roles that we play. I actually see my experience on previous boards and with my work experience as a positive because I have so much to offer, and then continuing along that vein that I think we all wear many hats. I not only work for Grove Farm, I am proud of the work we do there, but I am also a mother, a daughter, a sister, a wife; I have a lot of people to answer to, but the person at the end of the day that I have to answer to is myself. I think anyone who knows me...and I can appreciate Ms. Cowden's comments because we have worked together in the past and so there is mutual admiration there, but I think anyone who really knows me knows that I have the highest level of integrity in every role that I take on. At the end of the day, I have to answer to my principles and myself.

Councilmember Chock: It seems that the way that the Ethics Commission is set up, it is voluntary unless someone really files a complaint. Do you see yourself actually weighing in on those types of situations whether or not you would have a conflict with them, as stated, out there about certain issues?

Ms. Sandblom: Yes, I think I would always err on the side of caution. I am not really sure what is going to come up, so I cannot say...I do not know what is going to happen, but I usually am quite cautious and I do want to be able to commit to something and do it well and give it my all. I also want to make sure that the perceptions are accurate and that there are not any misconceptions about anything that I do.

Councilmember Chock: Thank you so much.

Ms. Sandblom: Okay.

Council Chair Rapozo: Are there any further questions?
Councilmember Yukimura.

Councilmember Yukimura: I have a follow-up question.

Ms. Sandblom: Okay.

Councilmember Yukimura: The whole nature of conflict of interest is that the person in the conflict cannot see the conflict...

Ms. Sandblom: Sometimes that happens.

Councilmember Yukimura: ...because it is so...you can think you are making your own decision, but given the positions that you hold, it is hard to know. I guess I would presume that if there were a charge of a potential conflict of interest, you would ask the Ethics Commission for a ruling.

Ms. Sandblom: I understand sometimes there are some blind spots, everybody has them. I would really feel that knowing just the level of experience that the other Commissioners have, too, that if something should come up that they feel would...if there were any concerns that came up as certain issues arose, that I would rely on them as well to talk to me and we can have a discussion about what may be a conflict of interest. If at that time, I need to get further clarification and advice. Whether it is to the Board of Ethics or what have you, then I can move forward with that at that time.

Councilmember Yukimura: Well, it is not the Charter Commission that determines conflict of interest.

Ms. Sandblom: No, I understand, but in terms of issues...it seems like you are trying to see if there maybe issues that arise in that role, if I serve in that role in that capacity, is that correct?

Councilmember Yukimura: I am not sure what your question is, sorry.

Council Chair Rapozo: Councilmember Yukimura, can you restate your question?

Ms. Sandblom: I think I misunderstood. What was your question exactly?

Councilmember Yukimura: If there was an accusation or a public input that raised a potential conflict of interest that suggests you might be in a potential conflict of interest, would you refer that to the Ethics Board, which is the official arbitrary of that issue to get their determination?

Ms. Sandblom: I think that would be the right thing to do.

Councilmember Yukimura: Okay.

Ms. Sandblom: Sorry, I misunderstood. I thought you meant if I had a blind spot and I did not realize continuing on. I apologize.

Councilmember Yukimura: I hear you. If there was an issue and somebody thought or you or a fellow commissioner or somebody from the public suggested that you were not seeing things about that issue, you would check with other commissioners...

Ms. Sandblom: Yes, that is what I thought you were asking. I am sorry.

Councilmember Yukimura: I understand what you were understanding. You will find with the Sunshine Law that informal conversations off the record are not easy to have, but certainly on the record and in the meeting's that is the kind of dialogue that is important.

Ms. Sandblom: Yes, and I had a lot of experience with Sunshine Law in my other board, so I know that is very important.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: Are there any other questions for Ms. Sandblom? Thank you for volunteering. I did want to make a comment about the conflict of interest because I think on Kaua'i, we use that quite loosely. We conflict and we recuse for things we should not really be. The other jurisdictions, the state, you have to show a direct benefit. In other words, I work for a hotel, full-time, forty (40) hours a week at night. Does that mean I cannot participate in any discussion as it relates to property tax involving the visitor industry? Does it mean I cannot participate in any discussion involving the Transient Accommodations Tax (TAT)? Absolutely not, because I do not get a benefit. I spoke to Councilmember Kaneshiro this morning and said, "I do not think that he should be recusing himself from this." What is his direct benefit whether you are on the Charter Review Commission or not? There is no direct benefit. That is how it is written in the law, but we do not do that. If it is uncomfortable, we just recuse out. This is no disrespect to Councilmember Kaneshiro because it is volunteer. I think Councilmember Yukimura or someone said

that it is volunteer. If you feel...but at the end of the day, if you cannot show the direct benefit, I do not know how you get out of these things. You can disclose and that is why we have the disclosure form and you disclose where you work, whom you work for, what do you do, how much money you make, and all of those things, but that is a disclosure. If the issue at-hand is not going to give you a direct benefit, it is not a conflict. I think people have to understand that, but we do not over here. If there is a perceive conflict by the public then we have to recuse and that is not fair to the body and it is not fair to the public. People elect you or appoint you knowing what you do. I was just trying to think and maybe Ms. Sandblom if you can help me...the issues that the Charter Review Commission are term limits, structure of government, whether or not a department is going to be created or not, districting of Councilmembers, terms of the Mayor, I do not perceive that to be a conflict to any industry on this island. It is government structure; that is what the Constitution is. If you were here for the Planning Commission, I can tell you right now I would not support that, but this is for the Charter Review Commission where you folks are going to be debating, taking public testimony. The other thing I wanted to talk about, and this is a question, Ms. Sandblom, is that transparency is always a concern, even for me. This last Charter Review meeting...Felicia is correct about the transparency...the meetings are quick, there is no television...

Ms. Cowden: There is no notice.

Council Chair Rapozo: There is notice because there is...

Ms. Cowden: But barely.

Council Chair Rapozo: Is it sufficient? I would agree with Ms. Cowden that it is not and this is much like the General Plan update where you are talking about the Constitution. Are you open to having that discussion and figuring out how we can be more transparent? They do not meet enough to cost the County substantial amounts of money if we ran Hō'ike, but I believe we should be transparent and I would like to hear your thoughts on that.

Ms. Sandblom: I plan to attend next week's meeting to see how things go and how it is run. Thank you for that clarification on possible conflicts, I appreciate that. I think going into this, if I am still confirmed, I will be able to take that input and that feedback into the meetings with me and I can share that. I am sure as other Commissioners have come through, these similar questions have been posed and they are aware of the desire for more openness when it comes to meetings. I know they must follow the letter of the law with regards to posting and things like that, otherwise there would have been a huge ruckus by now, I am sure. If there is need for more transparency, I can definitely bring that to the table.

Council Chair Rapozo: Are there any further questions?
Councilmember Yukimura.

Councilmember Yukimura: I appreciate your words about personal integrity, so if whatever the issue is, Grove Farm or your higher-ups have a position on a particular Charter issue, do you feel you will be able to vote according to your own assessment of the issue when it is against the position of Grove Farm and your bosses?

Ms. Sandblom: Those are sort of the unknowns and ambiguous situations, but I can tell you at the end of the day, when they hired me twelve (12) years ago, they hired me for who I was as a person and my experiences and background. I am my own person. While I can respect very different viewpoints, at the end of day, I feel I am able to successfully wear different hats. I volunteer for a number of different nonprofits and different boards and things and so I think in every situation, I am wearing that hat. When I am in the Charter Review Commission, I am wearing that hat and taking the best interest of our island and community, and so that is what I am going to be taking with me.

Councilmember Yukimura: So the answer to my question is yes.

Ms. Sandblom: I am going to be voting on my principles, yes.

Councilmember Yukimura: Even though it might be contrary to what people at your workplace or your bosses feel is the right decision.

Ms. Sandblom: It may be contrary to what my parents feel...I get all kinds of input from aunts, uncles, and a lot of unsolicited advice and feedback for a lot of different things and I take it all with a grain of salt, I keep an open mind, I keep my ears open, I am always willing to listen, but at the end of the day, I have to go with my principles and how I feel.

Councilmember Yukimura: Okay.

Ms. Sandblom: That is how I have conducted myself throughout my lifetime and I hope to continue to do so.

Councilmember Yukimura: Your aunts and relatives do not control your job or whether you are in your job, so it is a little different.

Ms. Sandblom: They do influence my happiness, though. I think in all facets, just like work...I was hired for the person I am and so they know the person I am.

Councilmember Yukimura: Okay...

Ms. Sandblom: If...

Councilmember Yukimura: My question was not about your auntie, it was about your job and so your answer is "yes."

Ms. Sandblom: What was your question, I want to make sure I answer it correctly.

Councilmember Yukimura: That if you, in your own determination, decide on a position that is contrary to what the people at your workplace, including your higher-ups, believe that you will be able to vote for that position.

Ms. Sandblom: I am going to stand on my principles, yes.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: Are there any further questions? I do have a question, Ms. Sandblom, and I do not know if you can answer this, if not, Paula. Ms. Cowden did bring up that very short term, but I am assuming that you are filling someone's unexpired term. Is that what that is, Paula? Can you come up just so that we can answer that question?

PAULA M. MORIKAMI, Boards & Commissions Administrator: Paula Morikami, Office of Boards & Commissions. In 2016, in the General Election, the people of Kaua'i voted to make the Charter Review Commission permanent. If they had not done so, the Charter Review Commission would have sunset for ten (10) years. Because the people of Kaua'i voted that way, we are forming a brand new Charter Review Commission and based on Section 23.02 of the Charter, it says all terms have to be staggered. In order to make that happen, we have three (3) members serving three (3) years, two (2) members serving two (2) years, and two (2) members serving one (1) year. Those members can be reappointed, but that is the start the staggering process, so that is in answer to her question.

Council Chair Rapozo: But her term is two (2) months.

Ms. Morikami: But it started January through December.

Council Chair Rapozo: Oh, okay.

Ms. Morikami: Okay, so she can serve another three (3) years and another three (3) years.

Council Chair Rapozo: Right, okay, understood.

Ms. Morikami: The other clarification that I wanted to make regarding Councilmember Yukimura's comments regarding the pros and cons of a charter amendment. The Charter Review Commission reviews proposed charter amendments and they vote on them. They do not leave it up to the public. They are feeling strongly that that is something that they want to see changed and that is why they put it on the ballot. It is not like leaving it up to the people, although the people decide by voting. So if you will notice on the informational piece that we put together, you do not see pros and cons. It is pros because that is what the Charter Review Commission feels that...the Charter Review Commission does not just leave it up to the public. They do in that they vote yes or no, otherwise there would be too many ballot questions, so they narrow it down on what they support and put it on the ballot.

Councilmember Yukimura: Thank you, Ms. Morikami. In my experience, I have heard members of the Charter Review Commission say, "Let us just let the people decide." That has not been my experience in terms of how individual Charter Review Commissioners vote on issues and that is why I felt it was important to ask. I am really against the idea of just putting the pros for a charter amendment, because even if the majority of the Charter Review Commission members feel that it is a good thing, and I feel they should before they put something on the ballot, because it is very expensive to put something on the ballot and it engages the community in a lot of conflict, so if it is not something that the Charter Review Commission has determined is worthy of proposing, then it should not be proposed.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I am...

Council Chair Rapozo: Hang on, because now we are getting into the process of the...and we are here for an interview.

Councilmember Yukimura: Yes, but Chair, you went on and on about what you thought was a conflict of interest.

Council Chair Rapozo: Because that was the discussion. That was an interview question.

Councilmember Yukimura: This is a discussion that...

Council Chair Rapozo: No, you are talking about pros and cons. This is what I am going to do because I agree with what Councilmember Yukimura is saying about the pros and the cons. I agree one hundred percent (100%), but this is an interview for Ms. Sandblom. I will frame this is a question because I do want to

hear your position on that, Ms. Sandblom, as far as the pros and the cons. Is that something that you would support? I, too, have a problem with the Commission being advocates for certain issues. I think you put the information out, pros and cons, and then the people vote. It is all part of the transparency, again, but is that something you can agree to that at least suggest that we give the people the good, the bad, and the ugly, and let them decide at some point?

Ms. Sandblom: I am not sure if there is any rationale or reasons why it was done that way in the past. I do see myself in this position in considering different issues; I do see myself looking at both sides, the pros and the cons of every issue that arises. I am not sure if it was done for a reason in the past, but that is one of the ways I make my decisions in looking at both sides, so that is something I will discuss with the fellow Commissioners and bring it to their attention that it is something that the community seems to be very interested and want to have. I am not sure expense-wise or why it was like that in the past, but that is something I will take into consideration.

Council Chair Rapozo: Yes, and you are not even there yet, but this is our only opportunity to get into your head and pick your brain. Once today is over, we do not have the opportunity. I do want to have that discussion. Are there any further questions for Ms. Sandblom? Questions pertaining to the interview? Councilmember Yukimura.

Councilmember Yukimura: As a Charter Review Commissioner, would you think that the process of deciding on Charter Amendments from Charter Review Commission decision-making to community decision-making via the ballot, do you feel that it is important that there would be full dialogue and therefore, full disclosure of the pros and cons of any ballot issue?

Ms. Sandblom: What I can say to that, that is similar to my personal approach. When I am reviewing different issues, that is how I go about things. Without knowing what the future holds, I am not sure if the other Commissioners kind of do their decision-making and what their process is. Again, if that is something that should be brought up at the next meeting, that is something I can volunteer to do. I do not want to speak for the other Commissioners who are currently serving.

Councilmember Yukimura: I only asked your opinion. Thank you.

Council Chair Rapozo: Are there any further questions? If not, thank you, Ms. Sandblom.

Ms. Sandblom: Okay, thank you.

Council Chair Rapozo: I would ask the Economic Development & Intergovernmental Relations Committee to look into that discussion on the Charter Amendment process. With that, thank you very much. Next item, please.

Ms. Fountain-Tanigawa: Chair, this is on page 3.

(Councilmember Kaneshiro was noted as present.)

COMMUNICATIONS:

C 2017-233 Communication (09/22/2017) from the Fire Chief, requesting Council approval, to accept a donation from the Kaua'i Lifeguard Association (KLA), of one (1) Trailer, valued at \$16,561.51, which will be used as an educational trailer to present Ocean Safety Awareness in Kaua'i's schools, as well as benefit the Junior Lifeguard Program, and to also be utilized for any special functions in the community that requires education on Ocean Safety awareness and prevention: Councilmember Chock moved to approve C 2017-233 with thank-you letter to follow, seconded by Councilmember Kawakami.

Council Chair Rapozo: Are there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2017-233 with thank-you letter to follow was then put, and carried by a vote of 5:0:2 *(Councilmembers Brun and Kagawa were excused)*.

Council Chair Rapozo: Next item, please.

Ms. Fountain-Tanigawa: Next item is C 2017-234, which will accompany an Executive Session, so the following item is C 2017-235.

There being no objections, C 2017-235 was taken out of order.

C 2017-235 Communication (09/29/2017) from the Director of Finance, transmitting for Council consideration, a Bill For An Ordinance To Establish A General Excise And Use Tax Surcharge For The County Of Kaua'i, to establish a General Excise and Use Tax Surcharge of up to one-half percent (0.5%) for the County of Kaua'i and to provide for receipt and expenditure of these moneys: Councilmember Kaneshiro moved to receive C 2017-235 for the record, seconded by Councilmember Chock.

Council Chair Rapozo: Are there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2017-235 for the record was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Proposed Draft Bill (No. 2670) will be coming up later. Next item, please.

C 2017-236 Communication (10/02/2017) from Councilmember Chock and Council Chair Rapozo, transmitting for Council consideration, proposed amendments to the Shoreline Setback Ordinance: Councilmember Kaneshiro moved to receive C 2017-236 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Are there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2017-236 for the record was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

(*Councilmember Kawakami was noted as not present.*)

C 2017-237 Communication (10/03/2017) from the Prosecuting Attorney, requesting Council approval, to receive and expend the State of Hawai'i, Department of Transportation Highway Safety Grant award for the Fiscal Year 2018, in the amount of \$153,239.00, which will be used toward continued funding of 1.00 Full-Time Equivalent (FTE) Traffic Resource Prosecuting Attorney, travel, and training: Councilmember Kaneshiro moved to approve C 2017-237, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2017-237 for the record was then put, and carried by a vote of 5*:0:2 (**Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2017-238 Communication (10/04/2017) from the Acting County Engineer, requesting Council approval of the associated Release and Hold Harmless Agreement for the Department of Defense Civil-Military Innovative Readiness Training (IRT) program grant which was previously approved by the Kaua'i County Council at its September 20, 2017 Council Meeting, to construct a portion of the Lydgate-Kapa'a Bicycle/Pedestrian Path Phases C & D to include upgrading the existing County-owned parking lot located behind Kapa'a Missionary Church, and the construction of a new comfort station: Councilmember Chock moved to approve C 2017-238, seconded by Councilmember Yukimura.

Council Chair Rapozo: I had a question and I am not sure, if anyone is here that can answer that. I do not have a map or anything regarding this project. I want to make sure that this project is going to be built outside of the shoreline setback area. I know we received some concerns with the one at the marketplace and I just want to make sure that we are not building structures inside of the setback area. I am not sure if we can have someone come over with a map. Again, these are one of those things that it is a great project, but as what is happening at the marketplace with that leg, which is excessively close to the beach, and I want to make sure we are not approving something that we are going to commit ourselves to building structures that is going to be washed away. I am not sure if we can move this to another part of the agenda or just send it to the Committee. I am not sure if it is time sensitive. I would probably prefer just sending it over to the Committee, so they can prepare and do a presentation, if there are no objections.

Councilmember Yukimura: Did we vote already? We took the motion to approve.

Councilmember Yukimura moved to refer C 2017-238 to the October 25, 2017 Public Works / Parks & Recreation Committee Meeting, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2017-238 to the October 25, 2017 Public Works / Parks & Recreation Committee Meeting was then put, and carried by a vote of 5*:0:2 (**Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. We will have it on next week's agenda. Next item, please.

C 2017-239 Communication (10/05/2017) from the Acting County Engineer, requesting Council approval, to purchase a liquid chlorine dosing system, at an estimated cost of \$42,000.00 (funding will be from the Wastewater Management Division's Repair & Maintenance (R&M) Equipment Account), to continue to provide R-2 recycled water to irrigate the Wailua Golf Course after December 31, 2017, as the existing chlorine gas system is old and needs to be replaced: Councilmember Yukimura moved to approve C 2017-239, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2017-239 was then put, and carried by a vote of 5*:0:2 (**Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kawakami was noted as silent (not present), but shall be recorded as an affirmative for the motion; Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

(Councilmember Kawakami was noted as present.)

C 2017-240 Communication (10/04/2017) from the County Attorney, transmitting for Council consideration, proposed amendments to Ordinance

No. B-2017-821, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2017-2018, by revising the amounts estimated in the General Fund, to fund Special Counsel: Councilmember Kaneshiro moved to receive C 2017-240 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2017-240 was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2017-241 Communication (10/05/2017) from the First Deputy County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims which were filed against the County of Kaua'i from July 1, 2017 through September 30, 2017: Councilmember Chock moved to receive C 2017-241 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2017-241 was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

CLAIM:

C 2017-242 Communication (10/02/2017) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Arlene Miyake, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Yukimura moved to refer C 2017-242 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2017-242 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

Ms. Fountain-Tanigawa: Next items are Committee Reports.

COMMITTEE REPORTS:

COMMUNITY ASSISTANCE & VETERANS SERVICES COMMITTEE:

A report (No. CR-CAVS 2017-02) submitted by the Community Assistance & Veterans Services Committee, recommending that the following be Received for the Record:

“CAVS 2017-02 Communication (09/19/2017) from Council Chair Rapozo, requesting the presence of the Mayor and the Managing Director, to provide a briefing/update on its efforts and plans to address homelessness in the County of Kaua‘i; a list of agencies/organizations partnering with the County in this effort, a list of available programs, if any, an explanation of each of the program’s goals, objectives, and timeline, including related costs and funding source; and a list of other programs that are available to assist homeless individuals and families,”

Ms. Fountain-Tanigawa: Council Chair, we have one (1) registered speaker on this item.

Council Chair Rapozo: Can I get a motion first?

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Chock.

Council Chair Rapozo: With that, I will suspend the rules.

There being no objections, the rules were suspended to take public testimony.

Ms. Cowden: I am going to do it after the presentation.
There is a presentation later, right?

Council Chair Rapozo: Today?

Ms. Cowden: Yes.

Council Chair Rapozo: No. This is just the minutes from the last meeting.

Ms. Cowden: Oh, okay.

Council Chair Rapozo: I mean, the Committee Report.

Ms. Cowden: I want to testify later.

Council Chair Rapozo: Okay.

The meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

PUBLIC SAFETY & TRANSPORTATION COMMITTEE:

A report (No. CR-PST 2017-06) submitted by the Public Safety & Transportation Committee, recommending that the following be Approved:

“Resolution No. 2017-48 RESOLUTION ACCEPTING AND ENDORSING THE SHORT-RANGE TRANSIT PLAN AS A POLICY GUIDELINE FOR THE COUNTY OF KAUAI,”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2017-10) submitted by the Committee of the Whole, recommending that the following be Approved on second and final reading:

“Bill No. 2667 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 1 BETWEEN JULY 1, 2017 AND JUNE 30, 2021,”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kagawa were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

RESOLUTIONS:

Resolution No. 2017-48 – RESOLUTION ACCEPTING AND ENDORSING THE SHORT-RANGE TRANSIT PLAN AS A POLICY GUIDELINE FOR THE COUNTY OF KAUAI: Councilmember Yukimura moved for adoption of Resolution No. 2017-48, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there any discussion or public testimony?

Councilmember Yukimura: Yes, Council Chair Rapozo.

Council Chair Rapozo: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: There is no testimony.

Council Chair Rapozo: We are having discussion right now. Was there any public testimony? Did anyone want to testify? Okay. Go ahead, Councilmember Yukimura.

Councilmember Yukimura: I would like to thank Celia Mahikoa, the Executive on Transportation, and I see Jeremy Lee there, too, and staff, the consultants, Tim Payne and Christina (inaudible) and their staff, the Administration, the people of Kaua'i, and the County Council for all the work that went into this Short-Range Plan. It is a very important plan that is going to allow us to make our transit system more efficient and effective, and also to expand services so that we can better serve the needs of our ridership and address and help to mitigate traffic congestion and other problems on our roads. It is a very important plan and a lot of work went into it. It was well done and now as we follow it, the people of Kaua'i will benefit, so thank you to all who helped.

Council Chair Rapozo: Is there any other discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2017-48 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun, Kagawa	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Next item.

Resolution No. 2017-49 – RESOLUTION APPROVING PROPOSALS FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE: Councilmember Kawakami moved for adoption of Resolution No. 2017-49, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Roll call.

Councilmember Yukimura: Council Chair?

Council Chair Rapozo: Yes?

Councilmember Yukimura: Can we have ad seriatim and a discussion?

Council Chair Rapozo: Sure. Did you have any specific questions on any specific item?

Councilmember Yukimura: I would appreciate it if between you and our Economic Development & Intergovernmental Relations Committee Chair, we can explain each proposal and what it is going to do.

Council Chair Rapozo: Okay. Councilmember Kawakami.

Councilmember Kawakami: Let us go down the list. The first proposal is A Bill For An Act Relating To Zoning, regarding the amortization of vacation rentals over a certain period of time, so I would ask if we could suspend the rules and maybe have our Planning Director in attendance that may be able to speak on it. It is the Hawai'i State of Counties Association (HSAC) Package, Mike, the amortization. I only ask this because when I was in the Legislature, I actually introduced this measure because the Counties needed some kind of vehicle enacted by ordinance. This is enabling legislation to allow the Counties to address the amortization. Mike, I am sorry, but could you give a brief synopsis of the need and what this includes?

Council Chair Rapozo: Let me suspend the rules. Mr. Dahilig, go ahead.

There being no objections, the rules were suspended.

MICHAEL A. DAHILIG, Planning Director: For the record, Mike Dahilig. All zoning authority that the County exercises is pursuant to Hawai'i Revised Statutes (HRS) 46-4. Within HRS 46-4, there is a litany of permissive and prohibitive actions that the Counties can take as it exercises zoning powers. What has been at the heart of the transient vacation rentals (TVR) debate across the State has been the ability to even distinguish short-term residential usage from long-term residential usage. This particular amendment, as I recall and I just looked at right now, has been something that we have been trying to ask the Legislature to give authority for the Counties to make that distinguishment affirmatively without having to litigate it out. So the amortization language is meant to clarify that although the State Legislature has said through statute, "You cannot amortize residential uses, that short-term residential uses, you can amortize." Briefly, that is what the Bill would do.

Council Chair Rapozo: Is there any questions for Mike?

Councilmember Yukimura: So, Mike, it is saying that any single-family TVR, which has been grandfathered in, that is allowed to exist, exists today even though we prohibited single-family vacation rentals outside the visitor destination area (VDA)...

Mr. Dahilig: Right.

Councilmember Yukimura: ...can be phased out should the local jurisdiction desire to do that? It gives the Counties the power to do that. Is that correct?

Mr. Dahilig: That is correct. If you look at the proposed Bill on the page where the proposed amendment is underlined. If you look at line seven, eight, nine, and ten, that is right now the legal ambiguity that we are running into in asserting that the County can in fact try to phase these things out. As you know, basic civics, either we can try to get the law changed or we can try to get a court to interpret it. We are pursuing both avenues as we are also in very intense litigation with many appeals that are of our denial to issue nonconforming certificates for transient vacation rentals. We continue to maintain the desire of the district and separate use from normal residential units and should have the ability to be amortized, just like resort uses in line fourteen are treated as such.

Councilmember Yukimura: Okay. Thank you. Therefore, this gives the counties the power to phase them out, but does not, in and of itself, phase out anything. The County would have to do...assuming this passes, then the County would have to propose a bill and pass an ordinance.

Mr. Dahilig: Yes, essentially, what it is meant to do is because the County can amortize other types of uses, this also would clear up that ability by the Council to say that in fact, you can phase out vacation rentals by ordinance. An ordinance will still have to be enacted in order to implement this and it will have to be done over a reasonable period of time and that is what the legislation is proposing.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Thank you, Mike.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The reason this came up years and years ago was when we were doing the TVR ordinance, we had hoped that the use or the nonconforming use permit would expire at the time of the sale. Therefore, if someone sold the property then they would no longer be able to do vacation rentals. We were advised by the attorneys that we could not do that based on this section, so this clearly gives the Council the authority now to end the use of the nonconforming use on to vacation rentals only and we would determine that time. Reasonable could mean anything, but I think at the time of the sale, so what it does is if that entitlement stays with the property forever and ever, then the value stays there forever and ever. If that use is only good while that owner has that property, then that house goes up to sale, it is no longer eligible for the vacation rental use, which would bring the prices down. That was the entire motivation. Councilmember Kawakami.

Councilmember Yukimura: I have a procedure question, Council Chair.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: Are we going to go over all of them and then vote in total or vote one-by-one?

Council Chair Rapozo: I would ask that we go through all of them now and if you have an issue, you want to take out ad seriatim, we will do that.

Councilmember Yukimura: Okay.

Councilmember Kawakami: Number two, is another piece of legislation that I introduced previously and had asked the State for an income tax incentive for employers who hire individuals with disabilities for a six-month period of which fifty percent (50%) of the qualified wages would be eligible. Just for the edification of the Members of the Council, if you noticed many figures are left blank, this was the method that we were asked to comply with as far as giving the Finance Committee the ability to insert numbers as they vetted the issue. That is number two.

Council Chair Rapozo: Okay. If you look at the Resolution, actually if you look at the communication, item number one, two, three, four, five, eleven, twelve, and thirteen were all introduced by Kaua'i and already passed this Council. The discussions were had so if there is any new discussion that needs to be had, yes, let us have it, but for the ones that we already went through in a prior meeting, I would suggest that we go with the ones that came from the outer islands. Thank you.

Councilmember Kawakami: Number 3, is a similar measure. It provides and asks the Legislature to provide an income tax incentive for employers that hire individuals that are elderly because these are the two classes that often times are cut first.

Councilmember Yukimura: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: The one just previous and this one, we have already covered in our package, right?

Council Chair Rapozo: Yes. Councilmember Kawakami introduced that and we have already gone through the public process.

Councilmember Yukimura: I just want to say for the future that it is very difficult if we do not...and excuse me, for this one there is no blank. Oh, there is. "The tax credit shall not exceed 'blank' per taxpayer." I just think that having blanks makes it difficult to understand the fiscal impacts to the State and those levels are actually major policy. I think we need to propose certain amounts, which the Finance Committee can then change or lower, but we need to know what the fiscal impacts are of any bill. If we give an income tax for hiring elderly, which sounds like a great idea, but there are many elderly and there is going to be even more elderly in the future. We need to know what the fiscal impacts will be.

Councilmember Kawakami: I would like to reiterate and remind you that this is the protocol that when I asked what they would like to see these bills and these proposals in the form of, that we were asked to provide it in this form. I understand your opinion on it; I am just trying to deliver what they asked for.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I want to reiterate further that the fiscal impact is not going to be on the County. The fiscal impact is going to be on the State and so I understand the justification of leaving it blank because it gives the State the ability to see what their financial impact is and pick a number that they are happy with or they may just kill the bill. I just want people to know when we are going through these bills, it is not a...if it was a fiscal impact on the County, yes, for sure we should definitely look at what the number would be and vet it here, but in this case, it would be a fiscal impact to the State. I am okay with leaving it blank, especially if that is what the State is asking for.

Councilmember Kawakami: Real quick, Council Chair.

Council Chair Rapozo: Go ahead.

Councilmember Kawakami: They are not going to be asking us. This is just the protocol that members of the Legislature and members of the House of

Representatives propose bills. This is the methodology, but I can understand the merit, but this is part of their process, too. These bills go through a first reading, they go to Committee, and that is where they vet many of the fiscal impacts. It is hard. We can put in numbers, but then you could mislead the public by giving inaccurate numbers that you are just pulling from the top of your head and that is why they asked for the courtesy to just maintain what is already custom in practice at the Legislature itself.

Councilmember Yukimura: Council Chair. The fiscal state of the State is important to us because as we see what they do, vis-à-vis the counties, is affected by the fiscal state and we are involved in so many constraints because of the fiscal condition of the County. Look at what the State did to the pension fund and to the health funds and now we are being affected. To me it is very uncomfortable to support something that we do not even know if it really works and at a certain amount, it might be a good idea and at a higher amount, it might be a bad idea. It just seems to me that if we are proposing something, we should...and especially if we want it to pass, we need to think it all through so that we can see that we are proposing a good package.

Council Chair Rapozo: I do not know if I am not understanding what Councilmember Kawakami just said, but Councilmember Kawakami just said he spoke to our State colleagues and asked them, "In what format do you want to see this so you can present it to the Legislature to be heard?" I heard Councilmember Kawakami say, "They want the blank." Why would we not leave it blank if we want the State Legislature to hear our proposed bill, if the State Legislature who needs to make the decision whether they hear it or not, is telling us leave it blank. Why would we go against what the State Legislature is asking or informing us regarding the format they would like to see it? I do not get it. I really do not get it. We are going to vote. We will take this one out in seriatim because...

Councilmember Yukimura: No, no, I am fine.

Council Chair Rapozo: You just said you cannot support...

Councilmember Yukimura: I am talking about the future and if I might answer your question, Chair.

Council Chair Rapozo: Go ahead. The question was if I heard Councilmember Kawakami differently.

Councilmember Yukimura: I am trying to explain. If I am really serious about getting this passed, I would have thought through what the impacts and implications are, both on the positive and negative. If someone says, "Why do you support this bill?" I would say, "Because it gives such great incentive to hire elderly,

which want to do, or people with disabilities, and the impact on the State is really quite small, relatively speaking. That is why it is a good bill.” In order to say that, I have to know what I am proposing. When you propose it at a certain level, it works. When you propose it at another level, it just does not work. That is why the identification of the amounts, too me, is so important. We could attach a justification sheet that says, “This is how the system would work” and we could put the figures in and we could have the form of the bill with a blank, but it would be that we are really showing that we thought through what we are proposing and that it would really work because that is the kind of thing we have to pass; things that we know will work. I am talking about the future so we can get better and better. Look at our record for getting things passed before the Legislature. Year after year, after year, we put these same bills forward and nothing happens. If our goal is to actually get these things passed, I think we have to show what we want passed, we have to be able to lobby for it, and you cannot do it without figures, in my opinion.

Council Chair Rapozo: Are you suggesting that putting a number in that blank would give us a better chance of it passing, when the State has asked us, now, to leave it blank? Do you think we would have a better shot?

Councilmember Yukimura: What I said is we can leave it blank, but we need to show how it would work with actual figures.

Council Chair Rapozo: Okay, I did not hear that earlier. I did not hear you say that we can leave it blank. I thought you said we cannot leave it blank, but anyway we are moving on. Let us take that one out of...

Councilmember Yukimura: No, I do not mind voting for it in total.

Council Chair Rapozo: Okay. Scott advised me that actually all of the items except six (6) and seven (7) came through this Council already because they had submitted their packages to us for approval and I apologize. Only six (6) and seven (7) were the only two that did not get to this Council and were not approved.

Councilmember Yukimura: Six (6) and seven (7).

Council Chair Rapozo: Let us go to six (6), which was proposed by Maui.

Councilmember Kawakami: Oh, okay.

Council Chair Rapozo: I am sorry, did you want to...yes; let us just go right through its Councilmember Kawakami.

Councilmember Kawakami: Number five (5), we had discussed and I have

to apologize to Councilmember Yukimura, I tried to get some tangible numbers and I was not able to. It seems to be complicated. We are talking about A Bill For An Act Relating To Automatic Fire Suppression Systems. What this is, is a twenty-five percent (25%) tax credit for the installation of fire suppression systems, up to five thousand, but it was complicated when coordinating with the City & County of Honolulu and then all of ours to forecast the amount of building permits that are out there and to predict how many people actually receive this as an option. I think the big picture of this legislation are there is two (2) schools of thought going on. There is a school of thought that these fire suppression systems should be mandated and required, further driving up the cost of construction of single-family residences, and there is a school of thought, which I am more at tuned too as to providing incentives to shape people's behavior to move in the right direction. That is the big picture of this one. I tried to get tangible numbers on this one and I was not able to in time for this.

Councilmember Yukimura: I am thinking that the Legislative Analyst did get some figures. They were pretty big, but...

Councilmember Kawakami: Past figures.

Councilmember Yukimura: Yes, fiscal impact figures in terms of total cost, but at this point, I presume we can check into it next year. Thank you.

Councilmember Kawakami: You are welcome. Moving forward is a proposal from Maui and it is basically to add a one percent (1%) conveyance tax for properties greater than two million dollars (\$2,000,000).

Councilmember Yukimura: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: I very much support this idea of taking a portion of the conveyance tax to put into an affordable housing fund because when you look at the magnitude of the problem of affordable housing, you realize that capital will be so important in producing these homes. Kaua'i was lucky that after the hurricane we were given forty-one million dollars (\$41,000,000), thanks to Senator Inouye and the Congressional team and we used that amount very wisely and it did not run out until two (2) years ago. We actually recycled a lot. In a form of loans, we leveraged it a lot, and so it produced a lot of housing, but it also really demonstrated the importance of having capital. This is a very good bill, but I was just wondering whether there has been a calculation as to how much money would be raised by this tax.

Council Chair Rapozo: On a two million dollars (\$2,000,000) sale, you

would get twenty thousand dollars (\$20,000).

Councilmember Yukimura: Well. How many two million dollars (\$2,000,000) or over are there in a year? What kind of revenue can we look forward to if this is passed? Does anyone know?

Council Chair Rapozo: I do not know. I just saw the Multiple Listing Service (MLS) statistics in the E-mail...maybe Chad, I do not know if you know. I just read in Pacific Business News that one of our realtors is sitting on a seventy million dollars (\$70,000,000) that he is trying to sell right now on Kaua'i. I guess regardless of what the number of units are, it is just for every two million dollar (\$2,000,000) home, it is twenty thousand dollars (\$20,000).

Councilmember Yukimura: Is there any clarity about how the moneys will be distributed?

Council Chair Rapozo: The statute states exactly what it can be used for.

Councilmember Yukimura: Can I finish? Moreover, the question is what are the capital needs of each County in terms of providing affordable housing? In the General Plan, it says that there is a deficit of nine thousand (9,000) housing units over the next twenty (20) years. Presumably, our housing element in the General Plan would have a plan for how we are going to provide those nine thousand (9,000) units and what the capital needs would be for providing those nine thousand (9,000) units and how we would use the inclusionary zoning powers to also supplement that. I do not know what Kaua'i's capital needs are, but it seems like something we should have at least an estimate on and I would like to know how much money would be raised and how much money Kaua'i County would have access to in order to meet the affordable housing needs of our community.

Council Chair Rapozo: Do you need that information to vote on this measure?

Councilmember Yukimura: No.

Council Chair Rapozo: Okay, then...

Councilmember Yukimura: I would like to ask that our staff or HSAC staff at least find out how much money would be generated by this bill. I think it could be very useful in persuading the Legislature to pass it and also if they saw that we had a plan for how we were going to use it and that was going to result in providing affordable housing, I think that would be persuasive as well. It is a request for more information so that as we lobby for it, we can have better chances of getting this bill

passed.

Council Chair Rapozo: Got it. Thank you. Are there further questions on this measure? If not, moving on.

Councilmember Kawakami: Okay. Number seven (7) is A Bill For An Act Relating To Transient Accommodations Tax; To Require Online Travel Companies And Other Transient Accommodations Remarketers To Pay Transient Accommodations Tax On Their Respective Portions Of Gross Rental Proceeds From The Payment Of Accommodations. This was proposed by Maui County. Basically, it is not a new issue. It is an issue that has come up before. We have some online travel companies that are marketing properties. Often times, they are out of compliance, but they are asking for the ability in enabling legislation to be agents for our tax collection, I will disclose that I had voted no on this measure previously on the floor of the House for concerns that once you collect tax, they could not answer the question on whether or not it was legitimizing by default the operation that may or may not be illegal. Sort of like Al Capone, right? He was busted for tax evasion.

Council Chair Rapozo: I want to explore that discussion, Councilmember Kawakami, because I think that was a concern of many, in the last discussion we had with HSAC was that you really and I will not say allowing, but you are condoning that illegal behavior in return for the tax revenue. If you want to expand a little more.

Councilmember Kawakami: I can. There is merit. There are good aspects to this measure, but at the time, we did not feel confident that some of these online companies had fully vetted some of their clients and had fully vetted whether or not they were in compliance with our County ordinances and rules and regulations. At the time, we told them to get their operation in order to make sure everybody was compliant and then come back and I am not sure if that has happened yet.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Should we support it? It does not sound like we should.

Council Chair Rapozo: We will be taking a caption break shortly, but I want to call Maui because I know he had talked about making some modifications and I cannot see the modifications in this draft. The big issue was the Airbnb and not so much the Expedia's, the Hotmail's, and the Kayak's, but the Airbnb where these online marketers can sell an illegal unit or rent an illegal unit, facilitate that transaction, and not be found by paying anything. I think some members, Mike White, specifically on Maui, said we should garner all of that revenue and other members are saying, "Wait a minute. You are garnering revenue from illegal

activity.” It is like putting a tax on prostitution and saying, “As long you do not tell me where you are getting it from, pay the tax, and we will close our eyes to that activity.” I am just relaying what some of the common discussion was in the past, but I will follow-up with Mike to see if there was a revision to protect...but if that is not there, then I would have a hard time with this as well. Councilmember Yukimura.

Councilmember Yukimura: The purpose of this bill is to help the government collect taxes. Is that the purpose?

Council Chair Rapozo: TAT. Chair White from Maui was very frustrated with the State’s handling of the TAT and the allocation. His basic argument at the Legislature was that, “You folks are leaving a lot of money on the table with these other operators throughout the Country that are selling our rooms and you have not gone after that, yet you are taking more from the Counties.” That was his argument. So he is the author of this. It makes sense on the surface, but again as Councilmember Kawakami cleared this table, there is an issue with compliance that I am not sure this bill addresses. Again, I have to call Mike to get a better understanding of whether or not that safety net was included, but I will follow-up on that during the break. Councilmember Chock.

Councilmember Chock: Chair, if you do not mind also, I think the clarity needs to look further into understanding the role that these online companies are going to play in this discussion that we are having on compliance and whether or not they are going to be responsible for advertising the TVR number and the legality of the needs that we are currently struggling with. I think it is their job to do so. I just want to know outside of zoning compliances, what other compliances that we can except if such a measure is to pass.

Council Chair Rapozo: Is there any other questions? If not, we will go on to the next one.

Councilmember Kawakami: Number eight (8) is another proposal from the Maui County Council and it is A Bill For An Act Relating To Government Records and this was a carryover previously. I want to say that this one is enabling members of the board or council...does anybody have any recollection of what this was a carryover from? Is this the enabling legislation to allow people to attend community meetings without violating the Sunshine Law?

Council Chair Rapozo: That one is later. This is the records, just for the records. The one for the community meetings is coming up later. This one is amending the Sunshine Law where we can provide our comments or memorandums amongst each other. Right now, we cannot. For the public’s information, I can communicate with one (1) member and that is it. If I had a question on this matter, for example that we are discussing right now, I can pick one (1) of you and say, “Hey,

what is your thought?" If we wanted to discuss the online travel agency, I could E-mail one (1) of you. It is the serial communication that right now we cannot do.

Councilmember Yukimura: I believe in one of the bills I was proposing, I wanted to do a cover letter explaining all the reasons for the bill and I was told I could not do that because of the Sunshine Law, even though it was going to be posted with the bill.

Council Chair Rapozo: Yes. That is it.

Councilmember Yukimura: That seemed very inconceivable because here you want to explain the bill you are introducing, not only to fellow members, but also to the public, and I could not do that.

Council Chair Rapozo: You could do it to the public; you just could not do it to the Members.

Councilmember Yukimura: I could not do it for the agenda purposes, is what I was told. Right, Scott?

Council Chair Rapozo: Are you talking about prior to it being posted?

Councilmember Yukimura: No, for posting purposes.

Council Chair Rapozo: The serial communication, as I understand the Sunshine Law, is between members of the board. This does not allow members of the board to solicit, support, or vote amongst each other. That is strictly prohibited. It is just to define a memo defining the government record, so if you had an amendment, this bill would allow you, Councilmember Yukimura, to send your little cover letter, along with the bill to each of us explaining what it is. That is not allowed right now, but this bill would change that. You would think that it is just minor.

Councilmember Yukimura: Council Chair?

Council Chair Rapozo: Yes.

Councilmember Yukimura: It actually thwarts the democratic purpose of full understanding and discussion to me.

Council Chair Rapozo: You mean the existing law.

Councilmember Yukimura: Yes.

Council Chair Rapozo: Yes, yes, and this attempt is to change it. I am not sure why it did not pass the last time. I do not understand why it did not get through the Legislature, but it did not, but hopefully we will try again. This is the one we rely on the community to lobby their delegation statewide that this just makes government more efficient, in addition to the one that is coming up later with the community meetings. Is there any further questions on that one? Okay, we can move on.

Councilmember Kawakami: Number nine (9) in the package is A Bill For An Act Relating To Important Agricultural Lands (IAL). This is also a carryover bill and is being proposed by Maui County Council. It is a two hundred fifty thousand dollar (\$250,000) appropriation ask that would be appropriated to the counties for the purpose of mapping and designating IAL lands under Act 183.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: I think before this we should do an audit of how Kaua'i County used its moneys to deal with IAL because I do not believe the outcome really matches the purpose and intention of the constitutional provision regarding IAL or our General Plan's intentions.

Council Chair Rapozo: Okay, that is a separate discussion and I would not have a problem with that. Kaua'i received these funds in the past. We completed the IAL mapping, is that correct? So we do not have any more to do. Does this impact Kaua'i? No. That is what I was told last year. Therefore, we are done with our IAL mapping and Kaua'i did it on their own, private landowners did some on their own in their expense. Even though County of Kaua'i is listed in here for sixty-two thousand five hundred dollars (\$62,500), we would not benefit from this proposal. This is the other counties asking the State for some help in doing their mapping, so this is if you want to ask the State to help the other counties. Next item.

Councilmember Kawakami: Item number ten (10) is A Bill For An Act Relating To Collective Bargaining. This is also a carryover and also proposed by Maui County Council. Very simply, the biggest change is that it gives the Governor one (1) vote instead of four (4), so there is a level playing field when negotiating with the four (4) Mayors. It also allows the presence of a County Councilmember to serve as a non-voting observer during collective bargaining.

Council Chair Rapozo: Big change. Big, big change.

Councilmember Kawakami: I do not think this will be in the Governor's package.

Council Chair Rapozo: I am sure it will be vetoed by the Governor,

but it is definitely giving the counties more voice. We talk about it every time a contract comes up. We talk about the State approving packages that the counties has to fund, the unfunded mandate. Police and Fire, for example. The counties fund the raises and the State does not. They do not pay for Police and Fire. A very small numbers in their State, so this will give the counties the seat at the table and a vote and take away three (3) votes from the Governor. Are there any questions on that one? Thank you. Next one.

Councilmember Kawakami: Moving forward is A Bill For An Act Relating To Tort Liability. This is also a carryover and this was proposed by Kaua'i County Council. This is the infamous lifeguard liability bill, which we were able to at least extend the Sunshine date. This past session, they allowed the sunset to enact, so there is no coverage. Basically, this goes back to the table and ask the State to indemnify our County lifeguards that are representing and guarding our State beach parks.

Council Chair Rapozo: That is the one.

Councilmember Kawakami: Priority number one (1), I would say.

Council Chair Rapozo: It was really the priority number one (1) last year. We were kind of disappointed, but I think this year...I am hearing anyway that they are a little bit more open to listen. That one is very important. Okay, next one.

Councilmember Kawakami: The next one is A Bill For An Act Relating To Unadjudicated Traffic Fines. Also a carryover and proposed by Kaua'i County. This just allows the uncontested traffic fines to be able to come back to the Counties and the justification is it is County law enforcement going out there and posing these fines and doing the legwork. There is a nexus that we should be able to collect some of those uncontested fines that really do not take a burden of State resources.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: This Bill has been in the Counties Legislative Package for at least thirty (30) years.

Council Chair Rapozo: Not that long, but long.

Councilmember Yukimura: Unless we have another strategy, I am not sure why we should keep putting it in the package because it does not seem to go anywhere. We need to figure out why it does not go anywhere and address that or we need to just take it off the list.

Council Chair Rapozo: I think Speaker Joe Souki was a big reason

why this never got any traction and he is no longer in the leadership. Things change at the Legislature. I do not think we should give up. We would continue to ask and have it there. Hopefully, we get somebody's ear at some point, especially now with the TAT measure where they are looking at other methods for the Counties to get revenue. I just think we should keep hammering at this.

Councilmember Kaneshiro: For me, I think a lot of these do not get passed because we are asking for a little more fairness. We are asking for the State to give up revenue that is going to them, of course, it is a hard pill to swallow, but when it comes to us, we get a lot of heat from the public on fairness and ourselves, too. We feel some things are not fair and the only way we can change it is to have it in here. If not, we can just continue to grumble about it, but again, these are all difficult things to get traction on because we are asking the State to give us money that we feel should be ours. I do not think anybody is willing to say, "Yes, let me give you more money." I think it always been a difficult thing. For our part, it is a fairness issue, it is something that we always talk about, and this is the one thing we can do about it—put it in the package. If it does not get passed, it does not get passed, but it is pretty much the only thing we can do to try and get the fairness. I am okay with leaving it in.

Councilmember Kawakami: To add to that, the value of advocating for these issues are this is the position of the County and then when we are dealing with the Legislature, we have to be mindful that a lot of them do not have the County experience that our delegation has. Each one of our Legislators, our Senator, our Senate President, our three (3) Representatives all have experience at the County-level, but a majority of them do not. Unless we bring these topics to light, we are not educating the Members of the House of the Senate as to why we feel that these are priorities. Whether or not they are passed, I do not think is a justification for us to stop fighting for things that we believe in that bring value to the quality of life. It is just one of those things that we dust ourselves off, pick each other up, and we move forward.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Do we know how much money we will get?

Council Chair Rapozo: No.

Councilmember Kawakami: I do not know.

Councilmember Yukimura: One cent more or one million more?

Council Chair Rapozo: That number is available, Councilmember Yukimura, and I do not have it with me today. I knew you were going to ask and I

should have brought it.

Councilmember Yukimura: We should have information sheets on each of these that give the essential information: what the bill does, what the fiscal impacts are likely to be, and what the pros are. That would really help us, I think. In addition, how much money would be generated if it is revenues that we are asking for?

Council Chair Rapozo: In a bill like this, it is really that we are voting on the mechanism to generate revenue, regardless of what the revenue is. If it is ten dollars (\$10), if it one hundred thousand dollars (\$100,000), or if it is one million dollars (\$1,000,000). We are trying to establish the revenue generator. In this case, it comes at no cost to the County, zero. We are already funding the cost. As Councilmember Kawakami said, the police officers go out and give the ticket and then the County Prosecutor has to process the ticket or citation, and then the ticket has the instructions of what the person is to do. It gives options of number one (1), you can go to court and fight the case, you can plead guilty with a letter, et cetera. The other way is you can send a check and that is the only involvement the State has; is when the State receives that check and puts it in their bank. So our County expenses at the police level and at the prosecutor level is really not reimbursed. This is a funding mechanism for the counties to recover some of the cost. I mean if our counties stop giving tickets for ninety (90) days, I think we would get the State's attention because that is a huge revenue generator for the State. All we are saying is, "Hey, listen, the ones that you do not really"...aside from opening the envelope, taking the check, and depositing it in the State's bank, "Can we get some of those revenues?" That is all this is. It is the mechanism that we would like to see implemented and it is just unfair that we do not. Yes, it has been on this package for a long time, but I do not think we should stop. Councilmember Chock.

Councilmember Chock: I do not know if it belongs here, some of what Councilmember Yukimura is talking about, because of what our role is, but I certainly hear part of what her request is and is something that maybe we can look at, at HSAC in terms of building perspective on each of these items, knowing that they come up every year, so that we can become more acclimated and be more informed and then be able to actually fight the fight and appeal for these things. I think those things are important. It does not affect me in terms of how I am going to vote on it at this point because I got enough information to do so, but I just want to acknowledge that I hear what the request is and perhaps that is an another discussion that needs to happen. Thank you.

Councilmember Yukimura: I am not arguing against the merits of this bill. I am just talking about how we might get some movement on it and I think it will be persuasive if we can show how much money is at stake; at least it will be persuasive to the public, and to the Legislators who may not know anything about this. If they know there is one million dollars (\$1,000,000) at stake—wow, that is a lot

for County budget. It might give us more momentum. I have to say that when you talk about fairness, I mean what I hear from the Legislature is, "Hey, you know when we tried to raise our fuel tax and vehicle weight tax and the Counties just criticized us for it and here we are trying to raise revenues so we can have a balanced budget," that kind of affects how they look at our requests. We have to be conscious about fairness.

Council Chair Rapozo: Are there any further questions? If not, next.

Councilmember Kawakami: Next is A Bill For An Act Relating To Emergency Medical Services, another carryover from the 2017 HSAC Package and another proposal from Kaua'i County Council. This is basically asking for an appropriation to increase our EMS services here on Kaua'i and also Hawai'i Island because those are the last two (2) Counties that have not had an upgrade to their system. Even though we had tremendous population growth, we have remained stagnant from the late 1980s or the early 1990s that we have not had an upgrade. We are asking for an expenditure from the Department of Health. Once again, amounts are blank.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Even though the amount is blank, I think we have an estimate of how much it cost to add another ambulance unit, right?

Council Chair Rapozo: For Kaua'i, it is one million four hundred thousand dollars (\$1,400,000).

Councilmember Yukimura: Okay. So we are asking the State to appropriate one million four hundred thousand dollars (\$1,400,000) for Kaua'i and one million four hundred dollars (\$1,400,000) for the Big Island?

Council Chair Rapozo: I am not sure how much it is for the Big Island.

Councilmember Yukimura: Oh, yes, the Big Island might be more because it is so big.

Council Chair Rapozo: I can only speak for Kaua'i.

Councilmember Yukimura: One of my concerns has been the overlap of functions between the Fire Department and Emergency Medical and we have discussed the possibility of a new business model or an operational model between the two (2) entities that respond to medical emergencies. To me, the State and also us who are the beneficiaries of this service, but also the taxpayers who pay for these

services, what are we spending for our Fire Department, which is eighty percent (80%) emergency medical, about twenty million dollars to thirty million dollars (\$20,000,000 - \$30,000,000)? I think we are justified in asking both entities to come up with some new ways of thinking that might give us some more efficient services before we just go to the conventional add-ons. I am hoping that we can somehow promote that type of analysis and I do commend the Fire Department to have begun to think about that, but I have not seen any results.

Council Chair Rapozo: Thank you. We need to take a caption break. I just want to wrap this item up. Councilmember Kawakami probably remembers this when he was in the Legislature that every County would be asking for funds for ambulances and how does the Legislature really choose. The State got together with the Emergency Medical Service (EMS), all the counties, the medics, the American Medical Response (AMR), and all the other providers who came up with a joint effort and a joint package, if you will, which when they analyze all their needs for the State, they came up with Kaua'i and the Big Island. The State EMS system actually supported this bill at the last session, so it is not the counties trying to vive for this money. It is the State who has come in and collectively they analyzed and assessed the needs of the State and determined that Kaua'i and the Big Island are the next two (2) that should be getting ambulances and that this is the bill that is going to try to do that. In response to Councilmember Yukimura, I think it is worth exploring as far as the counties because the State would want the counties to take over EMS, but just not long ago, you saw the ruling in the court. The City & County of Honolulu had to pay six hundred thousand dollars (\$600,000) in contested overtime fees or costs. I think it is worth exploring, but we have to analyze allowing the private sector to handle ours on Kaua'i versus making it a County function, so I think that is really a discussion for another time. Councilmember Yukimura.

Councilmember Yukimura: I am not presuming that the County would take over EMS services at all. I do not know what form would emerge if the two (2) entities started working together on the common goal of providing cost-effective emergency medical services to the island of Kaua'i. I also want to say that the State, I guess it is Department of Health that went through this system of analyzing and saying there is now a need on Big Island and Kaua'i. They did that without looking at a new form of partnership or collaboration. I do acknowledge that that is the need under the conventional analysis, but I guess I am asking for some thinking out of the box so that we might evolve into something that is really a good win for everyone.

Council Chair Rapozo: Thank you. Councilmember Kawakami.

Councilmember Kawakami: From a historical perspective, this is another measure that I introduced when I was up at the Legislature and it we would be remised if we did not give credit to folks like Cody Bonilla and Tito Villanueva that actually came up and said there is a huge gap in services. I introduced it because the

gap in service was in the fourteen district, as far as the response time and being able to respond to some of these emergencies. Frankly, almost every district asked for an ambulance in their district, but we were the only ones from Kaua'i that actually reached out to Emergency Medical Services and say, "Is it justifiable if we introduce this measure?" They replied, "In all honesty, you folks are one of the only ones that is justifiable for any type of expansion." Here and Big Island. Here we are today, but it took folks from the field, such as Cody and Tito to come and say they are having a challenge responding to emergencies in the fourteenth district. This will help everything from fifteen and sixteen, so this is going to help the entire island if you add another one.

Council Chair Rapozo: Thank you very much. With that, I am going to take a caption break. We will be back in ten (10) minutes and resume with the package. Thank you.

There being no objections, the meeting recessed at 10:35 a.m.

The meeting was called back to order at 10:52 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as present.)

Council Chair Rapozo: I will call the meeting back to order and we can continue on.

Councilmember Kawakami: Number fourteen (14), A Bill For An Act Relating To Unmanned Aerial Vehicles, a carryover proposed by City & County of Honolulu. This is to prohibit the "Peeping Tom's" from using drones to look at you and be "Peeping Toms."

Council Chair Rapozo: Go ahead, Councilmember Kagawa.

Councilmember Kagawa: Scott had done me a personal request earlier that was seeking exactly what this is seeking. A response was that the Federal government controls the air space and we had no say in it. I am glad that perhaps as a whole State, not just Kaua'i County, we can seek something like this because I do feel that it is a privacy issue. I do not see any good in recreational flying of drones in neighborhoods and flying at levels high above where they can peek into people's houses. I just think it is silly and invasion of privacy. If you want to go and enjoy your recreational drone, go to the park, stadium, or somewhere far away from the residents, and go and practice your recreation habits. Certainly, flying it in neighborhoods is definitely, too me, can seriously damage lives as well. We need to be strong in this in trying to seek some type of ban in flying drones in residential areas. Thank you.

Council Chair Rapozo: Thank you. Is there any further discussion? If not, we will move on.

Councilmember Kawakami: Moving on to number fifteen (15), A Bill For An Act Relating To Community Meetings. It is a carryover from 2017 and proposed by Maui County Council. This is the one that allows Members of the County Council to attend community meetings. I think it is overreaching of the Sunshine Law to prohibit all of us from attending community events and meetings for educational purposes, and because of this, often times we cannot do our job. I think it is a reasonable ask.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to say that this is a no-brainer. For a Sunshine Law that is premise on full disclosure, good notice, and good democratic process, to not allow public officials, decision-makers to attend a meeting where they can hear both the community and being educated on an issue is beyond me. I think it is a change that is really long overdue.

Council Chair Rapozo: Is there any further questions? Just a couple highlights in the bill and this has been added as well, that in the language as far as the meeting, it has to be open to the public. It has to be open to the public, so it cannot be a seminar that is closed. It has to be an open public meeting. Again, a no-brainer is really an understatement. It actually takes away and closes the sunlight from the public because they are not able to have the representatives there. Is there any further discussion? If not, moving on.

Councilmember Kawakami: Number sixteen (16), A Bill For An Act Relating To Identification Cards For Persons With Disabilities, a carryover, also proposed by Maui County. This allows the individual with a disability to have the option of stating their disability on their driver's license so when somebody is responding to them and they are checking their identification (ID), they know exactly what their condition and disability is.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I can see a complication of doing that where people have temporary disabilities at the time they are getting their driver's license and it is put on their driver's license, which last a long time, but the disability may not. I speak of this because the need that we will have as we implement the Short-Range Transit Plan to have very accurate certification of people with disabilities. Sometimes people are disabled for a month or two or two years, but then they heal and are no longer disabled. How do you reflect that change on a driver's license that is made for ten (10) years? How often do we renew our driver's license?

Unless it is only for people with permanent disability.

Council Chair Rapozo: As I understood it, the driver's license would be only eligible for permanent disabilities, but if you had a temporary disability, you could opt for a State ID card, which would be granted for a year. You would have to renew and get an affidavit from a doctor stating the disability, if it was temporary. But on the driver's license, obviously, it would have to be a permanent disability.

Councilmember Yukimura: Yes, but the definition of person with disability means "Any person with a permanent or temporary disability."

Council Chair Rapozo: Where does it say that?

Councilmember Yukimura: One the second page of the bill. Disability means, "Any physical, mental, or neurological impairment that restricts a person's mobility manual dexterity," so there is no clarification that it is for people with permanent disabilities.

Councilmember Kagawa: Council Chair?

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: I think we are trying to make this a little too complicated. If you are talking about people with mental disabilities, the list of people that can qualify for this card is going to be just enormous. How will the Driver's License Division determine whether somebody is suffering from a mental illness or what have you? There are many people that suffer from mental illness that can be diagnosed, whether it be Attention Deficit Hyperactivity Disorder (ADHD), so I mean I think we are trying to make this too complicated and we should just move on.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: I agree with the Vice Chair. I think we can move on, but I do not think we should include this is in this package if it does not describe a program that actually can work well.

Councilmember Kagawa: Well, take it out, if you want.

Councilmember Yukimura: I guess we will do that at the end of this discussion or at least I will propose it.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: What was the discussion on? Was it on

temporary disabilities?

Council Chair Rapozo: Yes.

Councilmember Kaneshiro: Because there is a section on temporary disabilities on page 5 and it does seem like the person can opt for it and then if you have a temporary disability, you need to have a doctor attest to it, and there is a certain time-period on the card. I do not see much of an issue.

Council Chair Rapozo: Anyone else? Next item.

Councilmember Kawakami: The next item and final item, item number seventeen (17), A Bill For An Act Relating To Transient Accommodations Tax. This is a carryover and also proposed by Maui County Council. It looks like it is the removal of the cap of the TAT and the only difference that I can see is the original appropriation to the counties as a whole was forty-four point eight and it just looks like they removed the cap and rounded it up point two percent (0.02%) to forty-five percent (45%) appropriated to the counties.

Council Chair Rapozo: This was the recommendation of the task force that was done a few years ago. Is there further discussion? Okay, if not, let me end there and see if there is any public testimony with any of the items in the package.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Let us take these in seriatim. Councilmember Yukimura.

Councilmember Yukimura: I am thinking we can do it the way you originally suggested and just pull the ones where we have trouble.

Council Chair Rapozo: Is there any discussion? Which item numbers, using communication C 2017-231, just tell me which items you want to take out in seriatim?

Councilmember Yukimura: I would like to know the result of your phone call with respect to the...

Council Chair Rapozo: TAT for the over the counter, the remarketers. I did speak to Chair White. He said the intent was to have these taxes

collected from these organizations or entities and then the taxes, along with the information on who it was received from, will be given to the counties, but I cannot see that in the bill. That is not in the bill. The other question that I raised with him is as I read the bill, it talks about sending the taxes to the counties that it was generated in and it will be dispersed in the manner as described in the section that says we are capped at 103. That is conflicting because it means we are going to get 103. The counties will share in one zero three, so regardless of how much more they put into that line, we do not get any more than 103 and that was not the intention. His intention was that the TAT generated by hotels right now, that is capped at 103. These remarketers would come in another class and those moneys will be allocated in the same percentages that the TAT formula was made and that, in fact, was the fourteen percent (14%) for Kaua'i. I think there are some issues on the language, but the question is right now we do not collect taxes from those operations, the Airbnb's and all of these room rental programs out there, and apps out there on the internet. Mike White is saying, "Hey, in order for them to have a fair playing field with the legal people, that we should tax them." If we tax them, it might force them with going into compliance because they would have to compete with the rest of them. That is the question right now and remember the TAT is ten and it will be a ten and a quarter percent, so right now they are not paying ten and a quarter percent, so they can actually have their room rates lower than a comparable unit that is legal and paying TAT. If we collect ten point two five percent (10.25%) from everybody, then they are going to have be on the same playing field. That is his perception of this thing. Councilmember Yukimura.

Councilmember Yukimura: I would like this one to be pulled.

Council Chair Rapozo: Okay, and this will be number four (4). Any others? Did you want number sixteen (16) pulled out, the ID cards?

Councilmember Yukimura: Yes.

Council Chair Rapozo: There seems to be a conflict in that as well. I think it has provisions for driver's license and ID cards, but in the driver's license section as I read it, it is using the same definition. That is saying that even if you have a temporary disability, you could have that posted on your card. I think there is an issue with that. I do not think that was the intent, but I think it was an oversight.

Councilmember Yukimura: I am just aware of the need for our Transportation Agency to have a very uniformed, reliable system of identifying people with disabilities and if there are several systems and we have licenses that name something and then we do a process, I can see where it could get confusing.

Council Chair Rapozo: Actually, it is not number four (4), it is number seven (7), and right now number sixteen (16). Is there any other proposal

that you would like to be taken out? Okay. If not, before we take the roll call, is there further discussion on any of these matters? Okay. I will entertain a motion to approve items number one (1), two (2), three (3), four (4), five (5), and six (6).

Councilmember Kaneshiro moved to approve 2018 HSAC Legislative Package Proposals one (1), two (2), three (3), four (4), five (5), and six (6), seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion? Roll call.

The motion to approve 2018 HSAC Legislative Package Proposals one (1), two (2), three (3), four (4), five (5), and six (6) was then put, and carried by the following vote:

FOR MOTION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Next, I will entertain a motion to approve 2018 HSAC Legislative Package Proposals eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and seventeen (17).

Councilmember Kagawa moved to approve 2018 HSAC Legislative Package Proposals eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and seventeen (17), seconded by Councilmember Kaneshiro.

Councilmember Yukimura: Council Chair?

Council Chair Rapozo: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: Are we exempting sixteen (16)?

Council Chair Rapozo: Yes, we will do that last.

Councilmember Yukimura: But on the coversheet it says, “A Bill For An Act Relating To Important Agricultural Lands.”

Councilmember Kawakami: It is difficult because we are following different lists that are in different orders, but on the main agenda...

Council Chair Rapozo: Yes, I was using the communication, C 2017-231.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Jade, what is easier for you folks?

Ms. Fountain-Tanigawa: We could use the transmittal letter.

Council Chair Rapozo: The way we are doing is okay?

Ms. Fountain-Tanigawa: Yes.

Councilmember Yukimura: Okay, so it is clear that those numbers are from the transmittal letter?

Council Chair Rapozo: Yes.

Councilmember Yukimura: Okay, then I am okay. Thank you.

Council Chair Rapozo: Is there any further discussion? If not, roll call.

The motion to approve 2018 HSAC Legislative Package Proposals eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), and seventeen (17) was then put, and carried by the following vote:

FOR MOTION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Okay, we will go back to proposal number seven (7). Can I get a motion to approve, please? Or...

Councilmember Yukimura: That is the one on...

Council Chair Rapozo: We will just call it the “Airbnb bill.” I will entertain a motion to approve or receive.

Councilmember Kagawa moved to receive 2018 HSAC Legislative Package Proposal seven (7) for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any further discussion? Go ahead, Councilmember Kagawa.

Councilmember Kagawa: We have problems with vacation rentals in residential neighborhoods. Local residents are tired of the County allowing it to proliferate to the point that it has. I think the Planning Department has tried to take some steps to shut it down and have been successful in some areas, but I think if we approve something like this and the Legislature approves it, it just open things up. Once people are allowed a vehicle to say they are paying a tax, that means that they feel entitled and I think their attorneys will win in court; to do whatever they want whether it be vacation rentals in residential neighborhoods and make money. They will do it legally because we adopted a bill that allows them to do so because we are taking their tax money. They will do it because it is tough to live in Kaua'i. They are going to do what they have to do to survive, but I think we, as the legislative body, need to know the problems that the local residents are telling us to solve. This right here is a clear way to send a message to our local residents that we are taking a stance. Even though it is not bringing in tax money for the state, so what, we do not want it to destroy our residential neighborhoods. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I have not gone over this bill with a fine-tooth comb, but on the section on annual returns, it looks like they are crossing out operator or plan manager and they are putting the taxpayer as being accountable. Therefore, if the taxpayers do not even file taxes, you will never get them. It feels like this bill would be shielding the individual operators and still using these operator or plan managers without the accountability that we need, or without them disclosing the information about the individual taxpayers.

Council Chair Rapozo: Is there any further discussion? I cannot support it simply because of the issues with the language. The conflicting language with the allocation of the funds, as well as the lack of clarity as to us finding out who these operators are, but I do agree with the concept that we should be taxing these people. Councilmember Chock and I went out yesterday to Hā'ena and Wainiha and took a look out there and there are so many, what I believe are, illegal vacation rentals or Airbnb units and they are not paying any taxes. That gives them the ability...and if you think about it, the numbers generated annually in revenue, tax-free, is really, hard to swallow. I think we have to go after them. I am just concerned that there is no mechanism in here to determine who these people are. I am also concerned, again, as I said earlier, the cap. The 103 being the cap. We can put all the money we want in that fund, but it still would not be capped at one hundred three

million dollars (\$103,000,000). I am rather torn right now on which way to go, but that is the dilemma I have and I do not know if any of you have any more discussion on this. Councilmember Kaneshiro.

Councilmember Kaneshiro: I am in the same dilemma as you. On my first reading of it or my understanding of it, it was basically a means to be able to tax people that were providing transient accommodations online and it was there was a section of business that we had a difficult time identifying and we were not able to collect a TAT tax on compared to a hotel or transient accommodation that is registered. I thought this was just a way to kind of loop those people back in, but obviously there is a little more to it as far as the State collecting the money and then we are asking for a portion of it to come back to us. As the State collects more of this revenue, it goes into what would now be considered a TAT fund, but then we are saying "never mind" and this would be an additional amount that would somehow be passed out between the counties. In general, I agree, if people are doing online sales, they should be paying the TAT tax on it, but I guess when it comes to where the money goes, yes, I am a little confused on it, too.

Council Chair Rapozo: Is there any further discussion?
Councilmember Yukimura.

Councilmember Yukimura: It seems to me that one (1) problem would be solved if these online managers are required to submit accurate information about who is operating Bed & Breakfasts (B&Bs), then you can see who is legal and who is not. Eventually, you would think that they would just be getting reservations and revenues from people who are legal. It seems that would be the way to do it. If the online operators are not willing to disclose that information, it is not right to allow them to collect it for the state.

Council Chair Rapozo: I am thinking is it better to move forward on the bill and then work with the legislature during the session to ask for the things, and I asked Councilmember Kawakami, who was there, is that something that it is feasible where you would pass it out of here, get it on the package, and then work with the legislature throughout the session to make it a better bill? I do not know much of the discussion that went on last session regarding this bill. I know we heard a little bit about it on the news, but that was the concern was the condoning of the illegal activity, but to not collect the tax on it also is...should we be collecting them from the sellers, resellers, and remarketers? It would force these operators to pay these taxes and then find a mechanism to mandate the information of these operators be released to the counties, because I think that it is vital. Councilmember Yukimura.

Councilmember Yukimura: I think it is dangerous to support a bill that does not represent what we want and I am sure that a form of this bill is going to be introduced one way or the other. Therefore, it would be better to reject this bill and

then if other bills are submitted, then to support amending those bills or support the bills that actually have a fair framework that does not condone illegal activities.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: The way it is currently written, I cannot support it. I think it moves us in the right direction and totally support it. I really appreciate the work that was put into it, but it needs more work. I think the unintended consequences are something that we need to take into consideration.

Council Chair Rapozo: Nothing stops this Council from doing a resolution. It will not make the HSAC package, but nonetheless, can still garner HSAC's support at a later date; it just will not be in the package. I am tending to lean that way. We should work on a new proposal that includes everything that we believe needs to be done. Okay. Is there any further discussion? Roll call. The motion is to receive, right? An "aye" kills it.

The motion to receive 2018 HSAC Legislative Package Proposal seven (7) for the record was then put, and carried by the following vote:

FOR MOTION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Next item would be number sixteen (16). This would be the identification cards for persons with disabilities. I will entertain a motion.

Councilmember Yukimura moved to receive 2017 HSAC Legislative Package Proposal sixteen (16) for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo:

Is there discussion?

Councilmember Kaneshiro: Yes. I want to say that I am supportive of this. I think the purpose of it is for people with disabilities to have the option to put their disability on their license or State card and if something happens to them, a first responder will be able to see it and that was the whole point of this bill. It is that they can opt to put it on their driver's license or whatever type of identification card they have so that...I think it says not all disabilities outwardly or visible from the outside, so if it something is happening to them, it will give somebody the idea of what

type of disabilities they already have. For me, I am supportive of the bill as-is. A lot of it says they can opt for it, so it is mandatory, but if someone has a disability and they say, "Yes, if something happens to me and first responders come, I want them to be able to look at my driver's license or ID card and know that I have 'x' disability."

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: I am not going to support the motion to receive because I think the measure has merit to move forward. I think what happened is and often times a constituent with a disability approached somebody and said, "Hey, this is an issue. Can you please help bring our voice to the Legislature," and a lot of this is an educational process. I can almost guarantee that the Maui County Council did not dream about this and that somebody came from the disability community and said, "This is an issue, can you please bring it to our Legislators," and for whatever which reason why it could not get there, they are using us as a vehicle. I would like to see this move forward and I know that it is flawed, but for the purposes of educating our Legislators on these kind of real issues, that our community with disabilities are dealing with, I think it has a merit to move forward. Thank you.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: I am concerned that a person with a temporary disability may choose to have it on their license and then the disability is removed, they go through a certification process for our paratransit and we deny them because they do not have a disability, but they will come and say, "But my license says that I have a disability." That is what I am worried about. I just do not see that it has been thought through for dealing with that and another issue is parking. Say their disability is over and the police puts a ticket on the window and they say, "But my license says I have a disability." It gets really complicated to resolve these things if the system does not work accurately.

Council Chair Rapozo: I think I can clarify because that was my concern as well. This does not replace the procedures for parking permits and for paratransit permits. This is for one reason and one reason only—it is to allow first responders the opportunity to know what the disability is if the person is unconscious. This has nothing to do with parking and it has nothing to do with your bus transit pass. This is only for first responders. This is like the bracelets, but rather than wear the bracelets, somebody on Maui, as Councilmember Kawakami said, was approached by a constituent that said, "Hey, not all of us have bracelets." My grandmother has an issue that...so when first responders get there, they look at the ID, they will automatically know. You cannot use that card, your ID, or your driver's license to park in a handicapped parking or you cannot that license or ID card to get a paratransit pass. Those procedures are not trumped by this bill. This is specifically for first responders. Councilmember Kaneshiro.

Councilmember Kaneshiro: And the bill specifically says, "The disabled notification on the card indicates that a person has a disability and does not take the place of existing public service qualification procedures."

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I honor the purpose of this bill, but there is this thing about unintended consequences and nothing in this bill says, "It shall be only for the purposes of first responders and shall not be used for any other purposes," and maybe an amendment can do that. It is dangerous to have single purpose bills that do not take into account potential unintended consequences.

Council Chair Rapozo: Is there any further discussion?
Councilmember Kagawa.

Councilmember Kagawa: I think we have capable State Legislators and something that is confusing to me, I cannot support in that I am not clear on what we are trying to fix or help and what is the intended or unintended consequences. Being that this is an HSAC Package, I am not comfortable supporting something that I am telling the State what to do, it is not even my job, it is their job, telling the State what to do and I do not really understand it myself. To me, it is difficult.

Council Chair Rapozo: Is there any further discussion? The motion on the floor is to receive, so an "aye" vote is a vote against the bill. Roll call.

The motion to receive 2018 HSAC Legislative Package Proposal sixteen (16) for the record was then put, and failed by the following vote:

FOR MOTION:	Kagawa, Yukimura	TOTAL – 2,
AGAINST MOTION:	Chock, Kaneshiro, Kawakami,	
	Rapozo	TOTAL – 4,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Rapozo: The motion to receive fails. Can I get a motion to approve, please?

Councilmember Chock moved to approve 2018 HSAC Legislative Package Proposal sixteen (16), seconded by Councilmember Yukimura.

Council Chair Rapozo: We already had the discussion. Roll call.

The motion to approve 2018 HSAC Legislative Package Proposal sixteen (16)

was then put, and carried by the following vote:

FOR MOTION:	Chock, Kagawa, Kaneshiro, Kawakami, Rapozo	TOTAL – 5,
AGAINST MOTION:	Yukimura	TOTAL – 1,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: We have done it in seriatim, now staff is going to prepare an amended resolution, which removes the items that were not supported, and that will come back at a later time today and we will do the final vote on the amended resolution. Just for the public's information the vote for HSAC has to be unanimous, so the items that were voted against on today will not be in the package going forward. Next item.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2670) – A BILL FOR AN ORDINANCE TO ESTABLISH A GENERAL EXCISE AND USE TAX SURCHARGE FOR THE COUNTY OF KAUAI

Ms. Fountain-Tanigawa: We have one (1) registered speaker.

Council Chair Rapozo: Can I get a motion, please?

Councilmember Kaneshiro moved for passage of Proposed Draft Bill (No. 2670) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 15, 2017, and referred to the Budget & Finance Committee, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion before we move with the public testimony? Councilmember Yukimura.

Councilmember Yukimura: I would like to have the Finance Director come forward please.

There being no objections, the rules were suspended.

KEN M. SHIMONISHI, Director of Finance: Ken Shimonishi, Director of Finance.

Councilmember Yukimura: Thank you for being here. If this bill is passed, how much money would be generated every year?

Mr. Shimonishi: Estimates were provided by the Department of Taxation. At a half percent (0.5%), it is estimated to generate approximately twenty-five million dollars (\$25,000,000) to the County of Kaua'i.

Councilmember Yukimura: Can you tell us how the Administration plans to use this twenty-five million dollars (\$25,000,000) a year?

Mr. Shimonishi: I think the emphasis will definitely be our roads, bridges, and that sort. Obviously, we have some set aside for transportation as well. We would prefer to have a more detailed plan provided during the Committee Meeting, provided this bill moves forward.

Councilmember Yukimura: Well it seems like we would need that information for the public hearing, so the public knows how you are planning to use that money. For my purposes, as you know, the bill that was killed in 2016 was killed was for a quarter percent (0.25%). At that time, the Council had determined that a quarter percent (0.25%) would be sufficient to handle base and that is why I am asking the Administration to tell us what you are going to use it for so that we can judge whether a quarter percent (0.25%) or a half percent (0.5%) is legitimate. I think it is a legitimate question to ask the Administration what your plan for expenditure is.

Mr. Shimonishi: We have estimates that we have revisited based on the prior work that was done and we have the numbers in summary of what we are projecting the costs are for roads resurfacing, reconstruction, and all of those things. Again, if you want those numbers, we can go over them or we can do that at the Committee Meeting.

Council Chair Rapozo: Has the numbers changed significantly since the last presentation?

Mr. Shimonishi: It has increased some. The roads at the last go-around was estimated at one hundred twenty-six million dollars (\$126,000,000) which included all prevention measures as well as reconstruction, overlay, and all of that. That is closer to (\$132,000,000) now. We have all the other projects on our bridges and so on. Those numbers have been updated as well. It is sizable still and that will be my response.

Council Chair Rapozo: Are the allocation percentages changing? I think that is what Councilmember Yukimura is asking.

Mr. Shimonishi: I do not think we made that determination yet.

Councilmember Yukimura: The last bill had no allocation. It was going to be determined budget-by-budget annually, but this is a ten (10) to thirteen (13) year...

Mr. Shimonishi: Twelve (12) years.

Councilmember Yukimura: I am hoping and I believe the public deserves sort of a long-range picture.

Mr. Shimonishi: If you want we can do an overview now. Again, I had thought that maybe we would wait to committee or public hearing, but if you really want a picture, then we can...

Council Chair Rapozo: I had asked Ken to do a general broad overview and not go into specifics, but I do appreciate the request. Councilmember Kagawa.

Councilmember Kagawa: We had numerous overviews by the Administration in the past about how they are going to spend it and if you have your old files, those, I think he said, the majority is still the same. At least three (3) times this bill has come before us. It came at a half percent (0.5%), it came at a quarter percent (0.25%), and then it came back as a half percent (0.5%). We had that discussion so much that I mean it was just ridiculous. We were going over the same thing and the votes were the same way, so I mean we have had, the public has had numerous...it just did not have the votes. We had numerous presentations that to me wasted a lot of time because the votes were not there. I think there are sufficient information out there for the public based on the past presentations they made. They are going to fix every road and every bridge with these moneys to the best of their abilities. I think they prioritized it with the most used and the most damaged. They had that all before us, so that is the basic plan. If the public wants all of those things fixed, this is the vehicle that they are asking for the approval. I do not think for first reading, we need to go into all of that detail again, because this would be the fourth time.

Councilmember Yukimura: I do not believe the public knows what the plan is and at the point that I recall, a quarter percent (0.25%) was going to cover the plan and we do not know what the votes are until we finally vote. The purpose of information is to influence the votes, so that we know how to vote. I am not looking for next year's budget; I am looking at an overall picture of how the Administration will be using these moneys. Of course, that will change over time, but generally speaking...so can you tell us that by the end of ten (10) or twelve (12) years, we will

be up-to-date on our roads, and also what the long-range plan for transit is and where those moneys will come in to help expand transit?

Council Chair Rapozo: I think for today, Ken, if you can give us an estimate of what we expect to receive and I think you have already said twenty-five million dollars (\$25,000,000) a year and what is the Administration's plan today, knowing that it will change constantly? As of today, what are the Administration's plan, how much of that fund do you envision going over to roads and infrastructure, and how much of that money, percentage wise, would be going over to transportation and transit? Is that something you can do today? I do not want to put you on the spot where you are going to speculating or guessing.

Mr. Shimonishi: What I can do is tell you what our estimates are on the needs on the different areas that would exceed the General Excise (GE) tax revenue.

Council Chair Rapozo: Right. Just based on the numbers you give, I obviously know that that it is not enough money, but what is the philosophy of the Administration today as far as where these funds are going.

Mr. Shimonishi: I think the general philosophy is that we will, as Councilmember Kagawa said, address all of the roads, all of the bridges, and include some component of transportation expansion and improvement.

Council Chair Rapozo: Are you prepared today to go into detail?

Mr. Shimonishi: No.

Council Chair Rapozo: Okay, then I do not want to go there because I do not think it is fair, but we do have a public hearing coming up. Will you be able to do a presentation at the public hearing?

Mr. Shimonishi: When is the public hearing scheduled for?

Council Chair Rapozo: It will be set for November 15, 2017.

Mr. Shimonishi: Yes.

Council Chair Rapozo: You will be ready?

Mr. Shimonishi: Right, we should have that available.

Council Chair Rapozo: We will open up the public hearing with you. I am not asking for a twelve (12) year annual...just really what is the general philosophy of the Administration going forward.

Ms. Shimonishi: Sure.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I have a process question. If he does a presentation at the public hearing, are we going to ask questions or he will just do the presentation and let the public hearing go on? I know they are going to have another presentation at the Committee. I would hate for us for them to do the presentation and then we ask questions and drag it on.

Council Chair Rapozo: The rules of the public hearing are going to stay the same. It will just give you an opportunity to address a general overview for the public that is going to be testifying and at the Committee level, we will have the discussion.

Councilmember Kaneshiro: So we will hold our questions on the presentation until we get to Committee?

Council Chair Rapozo: Correct. I think it is a fair question because the public should know and I am not sure how many people are going to show up for the public testimony. I can imagine that we will have a lot of written testimony, but I think it is important. They know it is twenty-five million dollars (\$25,000,000) a year, they know it is for twelve (12) years, and they know that the funds can only be used for roads, infrastructure, and transportation and transit. It is restricted funds. The question that I think everyone is asking or would like to know is what is the plan to allocate those funds? Is it going to be fifty percent/fifty percent (50%/50%) or sixty percent/forty percent (60%/40%)? I think that is what the public would want to know.

Councilmember Kagawa: When will the first twenty-five million dollars (\$25,000,000) be received?

Mr. Shimonishi: The surcharge would be effective, if passed, January 1, 2019.

Councilmember Kagawa: So, we will have a new Mayor by then.

Mr. Shimonishi: That would be correct.

Councilmember Kagawa: Again, I think the broad overview is we are going to try and fix...I mean show us the need, but the priorities will come with the next Mayor.

Council Chair Rapozo: And the next Council.

Councilmember Kagawa: So for them to prepare this detailed analysis and say, "We are going to put ten percent (10%) more to transportation, ninety percent (90%) to bridges and roads," is like a fallacy because in realty when the new Mayor comes, the new Mayor might say, "Hey, we are not going to spend any more on transportation. We will go one hundred percent (100%) on roads and bridges that are in really bad shape." To me, why are we going to waste time? Why are we wasting time? What is the needs out there? What is the most needed things that the first twenty-five million dollars (\$25,000,000) is going to knock out and then after that, what is the next year that they are going to knock out? Infrastructure, I think, as far as allocating more to transportation or what have you that is for the next Mayor to call. Unfortunately, that is when the date of the tax goes into effect. To me, let us be proactive, stop these pandering questions, let us just get to what is the facts, and let us deal with it. Let us not drag out things when it makes no sense at all.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: To clarify, I am not looking for a detailed plan. I am looking for...and I am not even looking for a percentage cut. I am looking for an overall long-range plan about expenditures. I am hoping that this County does not just do things year-by-year. The reason why we have this one hundred twenty-six, now one hundred thirty-two million dollar roads backlog is because we were not looking at things in the big picture and we were not planning ahead or finding out what was the total repaving needs and how much can we do every year so that we would be covering ourselves. That is what I am wanting to ask from the Administration; an overall plan, looking at both the long-range plan for transit, the long-range plan for roads, and any other transportation infrastructure.

Council Chair Rapozo: Ken, are you confused yet?

Mr. Shimonishi: Yes. Again, we can put our best efforts forward on what we think the best use of the funds would be. Obviously, we know our roads, bridges, and critical infrastructure need to be addressed. Ultimately, the budget comes before the Council and approved by the Council. Again, we will definitely work on our expenditure plan as we see it, at least for the initial six (6) months and a year or whatever of what the Department of Public Works can really address immediately upfront, as well as how far we can go on that, in general terms.

Council Chair Rapozo: Is there any further questions for Ken? If not, thank you very much. Is there anyone in the audience wishing to testify?

Ms. Fountain-Tanigawa: Chair, we have one (1) registered speaker. Glenn Mickens.

GLENN MICKENS: Good morning, Councilmembers. You have a copy of my testimony. Like Councilmember Kagawa said, we keep on bringing this up over and over and over, but we still have not seen the details, and I hope that we will finally see what we are talking about in this thing. The consultant who did the five hundred nine (509) page report for the Short-Range Transportation Plan testified that funding could possibly come from an excise tax. From what they have proposed in that plan, it is going to take millions of dollars to make it feasible. Since the plan involves a lot more than just streamlining the existing system, which they basically said. Now on the agenda today, we have a communication and a bill basically coming from the Multimodal Transportation Plan of 2013 that wants to add more buses, bikes, walking, and shuttles by 2019 with the funding coming from a half percent (0.5%) excise tax. Is this not just another regurgitation of the GE tax that Councilmember Yukimura had previously had previously asked for and was rejected by a 6:1 vote on the Council? As members have so well said, Councilmember Kagawa in particular, the people are fed up with more and more taxes and surely does not want this or any tax added to their already overburdened lives. Section 5-3.1 of this bill says that this half a percent (0.5%) tax surcharge will be used for purposes of funding this operation and capital cost of public transportation within the County of Kaua'i. In other words it means that this tax will fund more buses and I said so many times that buses are not the answer to our traffic, which has been the ultimate theme of alleviating traffic, not just more efficiency in this system, which I thought we were talking about. There is so much waste in our system that my dear friend, Ernie Pasion, pointed out in the eight (8) audits he did. I am talking about waste. Why are we not going after the waste and find out where the money we are taxed for now is going to where it is supposed to go, like the millions that are allocated for our roads, but we are only getting a fraction of that? Automatic raises for the top County employees making over one hundred thousand dollars (\$100,000) a year while the bottom people get no raise at all. For years I have shown mayors, councilmembers, and engineers factual proof of how we have been paying for asphalt concrete (AC) to pave our roads that we have not been getting...one and a half inches. Council Chair Rapozo and Councilmember Yukimura, you both have seen this, and the other members probably have not, but anyway this peace of asphalt came off of Hauiki Road. It is about a half inch thick, but we paid for one and a half inches, but nobody wanted to pursue it and find out why. Where was the money going that we paid? That is the amount of money I am talking about, millions of dollars that we should be looking for and not including our taxes for the people.

Council Chair Rapozo: Glenn, hold on. Is there anyone else wishing to testify? If not, you can have your second three (3) minutes.

Mr. Mickens: Thank you. Larry Dill finally came onboard and he saw that the situation...whether it is being now—Larry left us, he is with the State—but I am not sure if the paving is in the correcting now, but get our County up here to find it out and see if we are doing what Ernie did in his audits to find out what was being done. Why not use Charter Section 3.17 and delve into the problem rather than just ignoring it? I showed you this asphalt and concrete. Also with the Olohena Bridge and the Kīlauea Bridge, we paid ten times more to build them by not using the Acrow Company who built the bridge over the Wailua River. Four million eight hundred thousand dollars (\$4,800,000) for the Olohena Bridge and twelve million five hundred thousand dollars (\$12,500,000) for the Kīlauea Bridge. The point is that Acrow Co. is a reputable company. They have other bridges on Kauaʻi, so why did we not ask them to bid on it? With proper leadership and finding out and correcting this waste, we could have enough money to properly pave our roads, solve traffic issues, take care of the homeless, and solve so many of our problems that funds are the answer to without raising taxes by one cent. I know I am repetitious, I have sat here so many times, Council Chair Rapozo, you have seen me one hundred times sitting up here, going through these roads and paving thing. All I am asking is, if I am wrong, tell me that I am wrong, but if I am right, let us do something about it. I cannot seem to get anybody to pursue it, but again, I am asking the question. There is so many waste that is going on. We do not have to raise our taxes of half a percent (0.5%) or quarter of a percent (0.25%). For what? More buses that will not solve the problem? That five hundred nine (509) page report made all of these projections. We paid two hundred thirty-three thousand dollars (\$233,000) for that report. It was a very comprehensive report, but it was not just about streamlining the bus system we have now. They talk about going up into the homesteads and everywhere else. That is going to huge money. Money that we do not have. We have to find out where prospectively we are going to have this money, but before we raise the taxes, please let us just look at the waste there is in this system. Go through Ernie's eight (8) audits, there were so much waste there. Have we corrected it? I do not think so, but let us bring it to the forefront and find out. Thank you, Council Chair.

Council Chair Rapozo: Thank you.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any further discussion? Councilmember Kagawa.

Councilmember Kagawa: I just want to make a few corrections. I think the last transit study that we had, the new plan that we had, I want to thank the Transportation Agency. They were trying to be more efficient with what they have.

They have taken steps, we have taken steps to support them in becoming more efficient with the money that they have and not adding more. To criticize them about expanding is not the purpose right now. Once they put their plan in place and we see that there are needs out there that could be addressed, perhaps they will come forward, but at this point, there are no plans for any expansion in funds. I want to support them on that token. Secondly, this thing has been before us many times in many forms as far as half a percent (0.5%), quarter percent (0.25%), then it came back at half a percent (0.5%), and then it came back as a quarter percent (0.25%). I am not exaggerating I think we had at least four (4) votes on this with the hopes that the testimony and discussion would change minds and it never worked. There were some of us that just felt that we agreed with you, Glenn, which we could make cuts to this budget and take care of the needs out there, whether it be one hundred thousand dollars (\$100,000) in roads and one hundred thousand dollars (\$100,000) in bridges. We thought we could chip away; however, I have been here for six (6) years. I have been the biggest proponent for making large cuts to the County budget in my five (5) years here. There is no other Councilmember that have come close to the amounts that I had proposed and I made many enemies and many uncomfortable situations, but what I tried to do was do what you said; cut the fat in areas like Fire and Police. Things such as rank-for-rank, which is overly generous overtime provision that is in the Fire contract and I tried to address those things, but I did not have the votes. You can want to make the cuts, you can want to do the things that Glenn is telling us what to do, but you need three (3) other votes with you and it is tough. I am not criticizing any one of them, but everybody elected here is trying to do what is best. I am just saying that I tried to go your route. I went to the deepest public safety. I mean, who wants to touch public safety? They are the biggest budget. If you are going to cut your expenses at home, how will you save money? You are going to cut the biggest cost, right? That is the only way you will achieve success, so I went after the biggest budgets and I did not have the votes. Five (5) years already. I am tired of banging my head. I am banging my head and getting no results. Infrastructure is still falling behind as we speak. There were years way back, and I have served here for five (5) years, but there are Councilmembers who have been here for twenty (20) or thirty (30) years and we get this backlog, so who is to blame? Really, we are going to point our fingers at the Department of Public Works, the men who have been heading the Department of Public Works for the past six (6) years or whatever? It has gone way back. We have fallen from twenty (20) to thirty (30) years ago that we started neglecting and just paying salaries with our County budget and not doing the CIP work that needed to be done. Now, if we are unable to make significant cuts, how are we going to catch up? This is our last chance. I have not decided which way I am going to vote, but the rail gave us this last opportunity to try and grab half a percent (0.5%) from the tourist, half a percent (0.5%) from the locals, and it is a very regressive tax, I admit, and that is what makes it difficult, but how else are we going to fix our roads and fix our bridges? If you are asking how are we going to ease congestion—even if we deal with the State, if the State goes with some alternate ways of dealing with congestion, the County will have to put in money to connect. We have obligations if

we want to ease congestion. You talk about Westside, talking about someone dreaming about alternate routes, but the County will still have to help to connect them. Look at Olohena Road. How long are we going to talk about Olohena? I have been talking about Olohena Road for six (6) years. People's tires are taking severe damage everyday on that and we do not do anything. I want to hopefully leave in two (2) years, when I term out, say that the infrastructure got better. I have not taken that step yet. This may be my only chance. Thank you.

Council Chair Rapozo: Any further comments from Councilmembers? Councilmember Kaneshiro.

Councilmember Kaneshiro: I think it was last year going through the GE tax, the Administration has a lot of the information already prepared, it is a matter of updating numbers, looking at their priorities again, and I have no doubt that they are going to come with a plan that show how they are going to spend the money over the life of how long we are going to get the GE tax. I think the only update we will probably have or change in that is that they are probably going to try to incorporate some of the transit plan that we just passed into the projects. Other than that, we have seen these before. The Administration has put the list together pretty well and they have a complete inventory of every road and bridge; they have the condition of the road and bridge; they have what type of work is needed; what is the cost; and then when needs to be done. That is what I was expecting and I am expecting to see it in the Committee Meeting. I was not expecting to see it here or at the public hearing, but that is what I am expecting to see at the Committee Meeting. I am expecting to see the entire presentation on this is how much money we are going to receive, this is how we are going to spend it, these are our priorities, and every year we have where we are spending it. It is the same thing that we saw last time and I just look forward to seeing that when the time being.

Council Chair Rapozo: Is there further discussion? I will just say that nothing much has changed. I think the needs are the same. The value of the cost of it may have gone up by some estimates, but at the end of the day, nothing has really changed. The presentation that will be done at the Committee Meeting is probably going to be similar to what we saw at the last effort. The State's position on TAT has not changed; they are going to cap it now and forever. They are allowing the counties, like good parents, to implement another tax. Likewise, my position has not changed on the GE tax. I do not support and at this point, if I had to vote today, I would not support this and I am anxious to see the changes, if any, but obviously, if nothing in the presentation or the plan, and Councilmember Kagawa is correct—it will be actions of future mayors and councils to determine how these things are spent. At the end of the day, I do want to see some sort of plan that not just address roads, not just buses, but congestion. That is the biggest complaint that we have today is the traffic, congestion, and the condition of the roads. I would like to see a plan that addresses those things. Our financial situation in the County, we are sitting on a

reserve and a fund balance that is probably going to be close to about fifteen million dollars (\$15,000,000). I just cannot see us raising taxes. The General Excise Tax, which again has been called the most regressive tax and it is true. I wish the State would give us the authority to just do a county sales tax where the end-user pays and that is it. It is not a pyramiding tax. The State collects all along the way and the counties' taxpayers participate because they have to. I like to much rather see a sales tax versus a regressive GE tax. Again, it goes back to my concern about the capacity of this County to spend that kind of money every year. Yes, we heard from the Department of Public Works that say they can, but I do not believe we have that capacity. I do not believe we have the capacity to spend that kind of money and then what happens with the money. There are many things that I have to clear up before I vote to support this. I do not see myself supporting this going down the road for the very same reasons I did not support it the last time and it is the carrot that the State dangles in front of us because they do not want to release any more of our TAT taxes, but that is where it should really come from. I think this is just a convenient way to say, "charge your taxpayer." Why not the State raise the GE tax and then we do not have a choice, right, but they do not want to do that. They want the Counties to tax our constituents and yet all the while they are holding our money from the TAT. That does not make sense to me. As I said the last time, all the constituents should get in touch with your delegation and let them know. I am talking Statewide because it is a Statewide issue and that the delegations of the House and the Senate, throughout the State has got to understand that if they support the unfair treatment of the counties as it relates to the TAT, then they will lose their seat. That is what message has to be said to the State Legislature by the constituents throughout the State, not just a few councilmembers and a few mayors, but from the general public. They have to let their Legislators know that if you support that cap, we are not going to vote for you and when that happens things might change, but until then, we are just going to be fed with, "Go tax your people." If everything was all fair and TAT was allocated appropriately and we still did not have enough money, then I would say, we might have to resort to a GE tax surcharge increase, but we are not there. Our money is sitting at the State, in my opinion. That should be released to us before we raise a penny a tax. That is just my position. Unless some drastic changes are made between now and the vote, I am not going to be supporting this. Councilmember Yukimura.

Councilmember Yukimura: We cannot continue neglecting our roads because the bill just keeps getting bigger and bigger. It does not go away, and that is the County's bill, that is. Then there is the personal bills of people who have to fix their cars, so it is not a choice. We have to fix our roads. Seven (7) years ago, I was the one who asked the Department of Public Works for an assessment or inventory of the state of our roads because I did not know how much money was needed because our role is to give money. I did not know how much money was needed to fix our roads and they went through two (2) or three (3) years to actually figure it out. To their credit, they got the road-paver program software and they started doing the checks out in the field, so now they know how much we need. They have been asking

us for it for the last three (3) or four (4) years with a plan and an overall cost and we have not been able to deliver the moneys because we have refused to do whatever was needed to provide the moneys, whether it was achieve TAT money or get GE tax money or raise property taxes or whatever it took. We are not doing a favor to the citizens of this community to just let those roads deteriorate. This GE tax is important for that purpose. It is also important for the transit system to grow and we know we have to do this because that is part of managing congestion on the roads. As we have seen shifting modes and this is voluntary shifts, we are not asking people to give up their cars, but what I want to see is providing more service to the people who need the service to get to work, to keep this economy going, to go to school and learn and get earning power. All of these essential things about life on this island depend on an expanded transit system. The transit system is an affordable way to get around this island. So for those who are willing to do that, we need to provide for services. We found that every time we increased services, ridership increases. It is not that we have to convince people to ride the bus; we just have to make the system work so they can get to work. When my dad was ill in the hospital, the workers at Garden Island Rehabilitation and at Wilcox Hospital said, "We want to accept weekend work, but we cannot because we cannot get to work on a schedule that ends at 4:30 p.m. and it goes only every for two (2) hours." The Short-Range Transit Plan has shown that that is one of our priorities and it also has shown that we will first implement efficiencies and pay for those needs first with money saved, but beyond that, we will need more money. Whatever is the service, whether it is police service, fire, or parks—after a certain point after you have taken care of the efficiencies, you will need more money. You cannot do more without more money. This GE tax is important or the future and it is not to exclude one or the other, it is to do a system that supports all users. We do have another source of money; we have the fuel tax and the vehicle weight tax, which we refused to raise, even though people are saving money because of the cost of oil is cheaper now. Like we make the users on the bus pay a certain amount, we also have to make sure the users of the roads also pay more. We should have a multiplicity of sources of funding so we can have a fair system and that is all this is talking about.

Council Chair Rapozo: Thank you. Any further discussion?
Councilmember Kagawa.

Councilmember Kagawa: I would like to close and say that I hope the priorities will change going forward and I will need that assurance where we going to actually go to fixing roads, fixing bridges, rather than doing these types of Eiwa Street and Hardy Street type of beautification projects. For me, we excel at that, but that is not what the people want. The majority of people, I am talking about. There is much more...you do those beautification projects when you have extra money. That is what the people say to me. I hope that we can change focus and take care of the people in the cars, the local people are the cars, that is what we need to take care of, and not the few bikers and what have you. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to say that the roundabout on Hardy Street has really helped car drivers and has been an improvement in the flow of traffic and in safety. I do not have any problem with spending road money for projects like that that really do make things better for car drivers as well as others.

Council Chair Rapozo: Okay. Is there further discussion? I am very anxious to hear from the community on this matter. I really hope that community will get engaged and involved because I think it is important. I will be supporting today's first reading bill simply because I support it moving forward to the public hearing. I really want to hear from the community. Their voices need to be heard and I am hoping that they will get active in this bill because it is very important. If there is no more discussion, can we get a roll call?

The motion for passage of Proposed Draft Bill (No. 2670) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 15, 2017, and referred to the Budget & Finance Committee was then put, and carried the following vote:

FOR PASSAGE:	Chock, Kaneshiro, Kawakami, Yukimura,	
	Rapozo	TOTAL – 5,
AGAINST PASSAGE:	Kagawa	TOTAL – 1,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Chair Rapozo: Councilmember Kagawa, is that your vote?
You voted “no.”

Councilmember Kagawa: Yes, I am done. I am not supporting it.

Council Chair Rapozo: Okay.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Five (5) ayes. Okay. Next item, please.

Proposed Draft Bill (No. 2671) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (*Shoreline Setback*): Councilmember Chock moved to refer Proposed Draft Bill (No. 2671) to the Planning Commission, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony? I will suspend the rules.

There being no objections, the rules were suspended to take public testimony.

CAREN DIAMOND: *Aloha*, Caren Diamond. I want to thank the Council for putting this on the agenda and entertaining changing the shoreline setback laws. They are some of the most important laws that affect the community and the people who use our beaches and who use our coastal areas, and on the other side of every building permit and on the other side of every coastal development, is the public rights. Our shoreline setback bill, as it is right now, purports to be one of the strongest in the State and the strongest in the Country, but when you look at how it has been implemented, by and large, everyone gets an exemption. Instead of our coastal zone management laws finding out where the certified shoreline is, and then setting back development appropriate from that how the laws are written, basically everyone comes in with what they call an "approximate shoreline," which is a new thing, not supported by law. By and large, people are able to set that by the edge of vegetation rather than finding where the true shoreline is and then coming up with their setback. The County has been exempting people from coastal zone management laws, including the shoreline set back laws, as well as shoreline certification laws. What is before you takes out the exemptions that have enabled that to happen and gives back to the coastal management law goes back to better practices and as well as the part where you do determine how shorelines are done, or done in a way that is way more understandable. The State has copied Kaua'i's law in doing a depth-based setback, as well as an erosion-based setback and Kaua'i kind of changed from that. I support you going back to the depth-based setback and going back to not just a law that takes into account sandy beach shoreline erosion, but basically takes into account all the coastal hazards that exist. I know that this bill will have lots of work and time and I thank you for all your efforts to make our coastal-zoned management laws actually much better. Thank you.

Council Chair Rapozo: Thank you. Is there any further testimony? If not, I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any discussion before we take the vote? Councilmember Kagawa.

Councilmember Kagawa: I just want to thank Caren for all of her work in being a community watchdog that she is on the Northshore and I, too, am in agreement with Caren on a lot of the exemptions or what have you that has happened to the Northshore properties. You are talking about rich people that are taking advantage of approvals and really improving their properties and that is not the

intent of the exemptions, but it is what it is. Going forward, I want to look at how we can be stricter on the Northshore. I think we have to slow the Northshore down a little bit and restrict that area, especially to areas that are not occupied by local residents. If they are vacation type properties, let us be strict with them. Let us not provide them with having their own fantasy island areas—which I am in strong opposition to. Hopefully we can go forward and improve whatever is going on right now. Thank you.

Council Chair Rapozo:

Thank you. Councilmember Chock.

Councilmember Chock:

Thank you. I was invited by Council Chair Rapozo and Caren to look at this emerging need. When shown the amount of exemptions that have been applied to the shoreline setback and then I think what really has solidified at least my understanding that there are clear abuse occurring at yesterday's excursion to see some of these buildouts that are clearly rebuilding and not redesigning. I am not sure what the answer is because nothing has really worked significantly in some of these instances, but what is very clear is that the abuse continues and that we need to address it and we need to look back at it in what we have before us. I think that what Caren is proposing is very stringent. It was the most ironclad shoreline setback ordinance ever and so I think sending it back to the Planning Commission is the right decision to have this discussion to look at what it is we can do to improve our systems. It is really difficult when we drove down the road and we saw even the impact in so many ways due to encroachment and public accesses even having private, "Do Not Enter," on the County access roads. It is happening on the beaches, it is happening on the houses, it is happening everywhere, and so I think we cannot just set back and say everything is okay and that everything that we worked on in changing it has worked because...and we said we would do that. We said we would look at making sure that some of these abuses would not occur and in fact, they have under our watch. We need to look at it. Where it ends up, I am open for the discussion and potential changes. Thank you.

Council Chair Rapozo:

Is there any further discussion? If not, I am going to start off by reading Chapter 205(a), which is the Special Management Areas, the findings and purpose, just so that we understand what the legislature's intent was. It says, "The Legislature finds that special controls on development within an area along the shoreline are necessary to avoid permanent losses of valuable resources in the foreclosure of management options and to assure that adequate access by dedication or other means to public-owned or used beaches, recreation areas, and natural reserves are provided. The Legislature finds and declares that it is the State's policy to preserve, protect, and where possible to restore the natural resources on the coastal zone of Hawai'i." What Councilmember Chock and I saw yesterday, and Caren took us on the tour, was hard and painful to watch. It was very sore to see the amount of violations, number one; to see the disregard for public access; to see landowners vegetating the beach to grow their property, which I tried

my best to rip out as much of those vegetation that I could, but obviously there is just too much. DLNR needs to be informed. DLNR needs to get down there and clean that area that does not belong to these landowners because it is not theirs. We saw houses that were one thousand (1,000) square feet that are now four thousand (4,000) square feet. We saw residences, buildings, or structures that are not permitted. We saw two (2) story TVRs with two (2) TVNC numbers assigned to one (1) lot with upstairs and downstairs in a flood or tsunami zone. Obviously, the hard work that we have done as far as creating the strongest, strictest shoreline bill in the country is not working and I think a lot of it has to do with the amendments that were made. Councilmember Yukimura and I, many years ago, worked hard with a lot of people to create that very tough shoreline bill and that had been amended. I can tell you that when I see the files, which I have right here, the shoreline dedication or determination are being waived for all of these projects. Our Planning Department is saying, "No need." We have to now change the law so that maybe the discretion is taken away because the State law says we should. When I called the State a while back because I was very concerned about the waivers of shoreline determination, the State said, "It is your deal. That is your County's *kuleana*," but it is the authority to waive and that is wrong. I walked along that beach yesterday and to walk on public property that, as Councilmember Chock said, has "No Trespassing" signs on them are wrong. Our County is allowing that to happen in the form of these waivers. I do not know why we do it. I do not know why we are waiving shoreline determinations for some and not for all, but we are losing our beaches and we are expanding these properties. We are allowing these folks to build...you know they are taking old homes and are completely rebuilding them and not even being required to do permits or they say, "It is not a substantial or significant improvement. It is only interior work." I encourage the other Members to take a walk with Caren. The tour is about three (3) miles, but you will see why this bill is important. You will see why we have to strengthen and actually take away discretion and require it. There are still little bit places left on the North Shore that we have to save. Driving back with Councilmember Chock yesterday, it was almost as it was somber or surreal as we drove back thinking of the old days when we were able to run the beach and now it is disappearing and going away. On the public accesses, they have the nerve to put those signs saying you cannot go in. We did not have the tools to remove those signs from the telephone poles, which is illegal, but something has to be done and it has to be done now. I am hoping that this Council will see fit to really require our Planning Department to do what the State law requires. A year or two ago, I introduced a resolution for an audit or an investigation on the abuse chronicles, but the Council did not support that. But I can tell you what, I will be introducing it again. I will be introducing an audit, a performance audit because I want to find out why those exemptions were given. I want to find out why those exemptions were given to some of these properties, which should have had a shoreline determination done. I want someone to look into the numbers that are being provided to our Planning Department by these developers, these landowners that are saying...it is funny how when you look at some of the exemptions, it is forty-nine point something percent of

the value, so it is minor and not major. Nowadays, you cannot build stairs, porch, or anything less than one hundred thousand dollars (\$100,000). Somebody needs to look into these individual applications and find out why those exemptions were granted because I guess what I am saying is I am over this game. It is our resources that we are losing and it has to stop. Councilmember Kagawa.

Councilmember Kagawa: I guess my question for the Planning Department at some point, when it comes back from the Planning Commission, is why are they being so nice to these people? They took a tough stance on the cease and desist on B&Bs and then when you have these type of cases—wow. If we are going to make “big body” and be tough on one, let us be on all. Let us be that way to all that abuse and not just to one portion. You either going be “big body” or not. What do you want to be?

Council Chair Rapozo: Councilmember Rapozo, I think “wow” is the word. If you go down there, you will see the “wow.” If we require what the law requires, then we will not have a problem. If we are consistent with everybody, then we will not have a problem. However, when you see what is going on down there, it is just an open season and I think that is where we better put on the brakes and pump the brakes now. If we have to force it that way through legislation, we will. I think the intent was to give the Department some latitude for some projects that did not make sense or you did not really have to do a shoreline determination, but it is just sad. It is just sad out there. We will have the discussion. It will go to the Planning Commission and I am assuming that it will come back. I bet anybody lunch that the Planning Department is going to come back in opposition of this bill and it is going to be up to this body here to stand up for the people and say, “We know what you feel, but sorry,” because it is time now we have to do what we can do to stop the madness. We tried that “nice person” route and it has just been abused. The process to exempt these people from doing shoreline determination...and the shoreline determination is where the State comes and determines where the shoreline is and that is where the setback starts. Therefore, when you waive that and you sort of figure out where you think the shoreline is, you allow the builder to do more things within that property. Where, if we said, “No,” everybody gets this...the determination is required and we do not exempt that, we do not waive that, then everybody has to do it, and then there is no inconsistency. Obviously, you see the frustration because unless you go down there and see it...like I said, it is hard to see and watch. With that, the motion is to refer to the Planning Commission.

The motion to refer Proposed Draft Bill (No. 2671) to the Planning Commission was then put, and carried by the following vote:

FOR MOTION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6.
AGAINST MOTION:	None	TOTAL – 0,

EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Next item, please.

Proposed Draft Bill (No. 2672) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2017-821, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2017 THROUGH JUNE 30, 2018, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of the County Attorney–Special Counsel Account - \$150,000.00*): Councilmember Kaneshiro moved for passage of Proposed Draft Bill (No. 2672) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 15, 2017, and referred to the Budget & Finance Committee, seconded by Councilmember Chock.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill (No. 2672) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 15, 2017, and referred to the Budget & Finance Committee was then put, and carried the following vote:

FOR PASSAGE:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: It is 12:22 p.m., we have one (1) remaining item on the regular agenda that we need to vote and take action on, which is tied to an Executive Session.

Ms. Fountain-Tanigawa: We have the amended Resolution for the HSAC Package.

Council Chair Rapozo: Is that amended Resolution ready?

Ms. Fountain-Tanigawa: Yes.

Council Chair Rapozo: Here is what I want to do real quick. I want to recess, go into Executive Session...Mauna Kea, the Executive Session for the Shibuya matter, are you ready? Can we get that out in ten (10) minutes? What I want to do is take care all of our regular agenda items before lunch, so B.C., when we come back, B.C. will do the public hearing, and then you can leave, and we will do the rest of the Executive Sessions. This is just so we do not have to keep B.C. here longer. Let us do the Resolution, if it is ready.

Ms. Fountain-Tanigawa: Chair, we also have the Bill for Second Reading, the Collective Bargaining Agreement Unit 1.

Council Chair Rapozo: Okay, can we go to that item?

BILL FOR SECOND READING:

Bill No. 2667 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 1 BETWEEN JULY 1, 2017 AND JUNE 30, 2021: Councilmember Chock moved to approve Bill No. 2667 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve Bill No. 2667 on second and final reading, and that it be transmitted to the Mayor for his approval, and carried by the following vote:

FOR APPROVAL:	Chock, Kagawa, Kaneshiro,	
	Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Let us go back to the Resolution for the HSAC Package, which is Resolution No. 2017-49.

Councilmember Chock moved to amend Resolution No. 2017-49 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Yukimura.

Council Chair Rapozo: This is being introduced by Councilmember Kawakami. This basically removes the item that did not pass. Any further discussion? This is a vote on the amendment.

The motion to amend Resolution No. 2017-49 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and carried by a vote of 6:1:1 (*Councilmember Brun was excused*).

Council Chair Rapozo: We are back to the main motion. Any further discussion? If not, the motion is to approve as amended. Roll call.

The motion for adoption of Resolution No. 2017-49, as amended to Resolution No. 2017-49, Draft 1 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes.

Council Chair Rapozo: Can you read us into Executive Session.

EXECUTIVE SESSION:

ES-921 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing in Eric Y. Shibuya vs. County of Kaua'i, et al., Civil No. 13-1-0345 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Council Chair Rapozo: Can I get a motion, please?

Councilmember Kagawa moved to convene in Executive Session for ES-921, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Roll call for ES-921 only.

The motion to convene in Executive Session for ES-921 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.
Ms. Fountain-Tanigawa:	Six (6) ayes.	

Council Chair Rapozo: With that, we will take a short recess for no more than ten (10) minutes.

There being no objections, the meeting recessed to convene in Executive Session for ES-921 at 12:25 p.m.

The meeting reconvened at 12:39 p.m., and proceeded as follows:

Council Chair Rapozo: Can we have the next item, please?

C 2017-234 Communication (09/29/2017) from the County Attorney, requesting authorization to expend additional funds up to \$25,000.00 for Special Counsel's continued services provided in Eric Y. Shibuya vs. County of Kaua'i, et al., Civil No. 13-1-0345 (Fifth Circuit Court), and related matters: Councilmember Yukimura moved to approve C 2017-234, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2017-234 was then put, and carried by a vote of 6:0:1 (*Councilmember Brun was excused*).

Council Chair Rapozo: That concludes our regular agenda. We will return at 1:45 p.m., and we will have our public hearing, and then wrap up the Executive Sessions.

There being no objections, the meeting recessed at 12:40 p.m.

The meeting was called back to order at 1:47 p.m. and proceeded as follows:

Council Chair Rapozo: Can we have the Executive Sessions read, please?

ES-922 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing and request for authority to settle the case of Cameron Raymond v. County of Kaua'i, et al., CV 15-00212 ACK-RLP (United States District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-923 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing and request for authority to settle the case of Klaus H. Burmeister, et al. v. County of Kaua'i, CV 16-00402 LEK-KJM (United States District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-924 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-925 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding the claim filed against the County of Kaua'i by Jared Smith, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to convene in Executive Session for ES-922, ES-923, ES-924, and ES-925, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to convene in Executive Session for ES-922, ES-923, ES-924, and ES-925 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6*,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

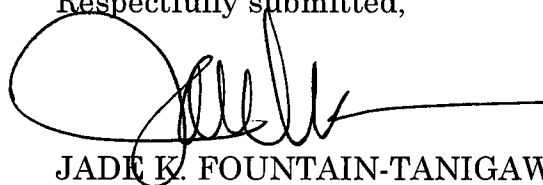
*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion).*

Council Chair Rapozo: We will convene in Executive Session Chambers. B.C., we are done for the day.

ADJOURNMENT:

There being no further business, the Council Meeting adjourned at 1:50 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:dmc

(October 18, 2017)

FLOOR AMENDMENT

Resolution No. 2017-49, Resolution Approving Proposals For Inclusion In The 2018 Hawai'i State Association Of Counties Legislative Package

Introduced by: DEREK S.K. KAWAKAMI

1. Amend Resolution No. 2017-49 by amending the "BE IT RESOLVED" paragraph to read as follows:

"[BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that it hereby approves the following proposals which are attached hereto for inclusion in the 2018 HSAC Legislative Package:

1. Relating to Conveyance Tax
2. Relating to Transient Accommodations Tax
3. Relating to Transient Accommodations Tax
4. Relating to Automatic Fire Suppression Systems
5. Relating to Taxation
6. Relating to Taxation
7. Relating to Zoning
8. A Bill For An Act Relating To Tort Liability
9. A Bill For An Act Relating To Unadjudicated Traffic Fines
10. A Bill For An Act Making An Appropriation For Emergency Medical Services
11. A Bill For An Act Relating To Unmanned Aerial Vehicles
12. A Bill For An Act Relating To Community Meetings
13. A Bill For An Act Relating To Identification Cards For Persons With Disabilities
14. A Bill For An Act Relating To Transient Accommodations Tax
15. A Bill For An Act Relating To Government Records
16. A Bill For An Act Relating To Important Agricultural Lands
17. A Bill For An Act Relating To Collective Bargaining]

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that it hereby approves the following proposals which are attached hereto for inclusion in the 2018 HSAC Legislative Package:

1. Relating to Conveyance Tax
2. Relating to Transient Accommodations Tax
3. Relating to Automatic Fire Suppression Systems
4. Relating to Taxation
5. Relating to Taxation
6. Relating to Zoning

7. A Bill For An Act Relating To Tort Liability
8. A Bill For An Act Relating To Unadjudicated Traffic Fines
9. A Bill For An Act Making An Appropriation For Emergency Medical Services
10. A Bill For An Act Relating To Unmanned Aerial Vehicles
11. A Bill For An Act Relating To Community Meetings
12. A Bill For An Act Relating To Identification Cards For Persons With Disabilities
13. A Bill For An Act Relating To Transient Accommodations Tax
14. A Bill For An Act Relating To Government Records
15. A Bill For An Act Relating To Important Agricultural Lands
16. A Bill For An Act Relating To Collective Bargaining

2. Amend Resolution No. 2017-49 by removing Proposal No. 2 from the package, titled in Resolution No. 2017-49 as follows:

“2. Relating to Transient Accommodations Tax. Requires online travel companies and other transient accommodations remarketers to pay transient accommodations tax on their respective portions of gross rental proceeds from the payment of accommodations. (*County of Maui*)”

(Material to be deleted is bracketed. Material to be added is underscored.)